



# Journal of the Senate

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Monday, April 30, 2001

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## CALL TO ORDER

The Senate was called to order by President McKay at 9:00 a.m. A quorum present—39:

Mr. President	Dawson	Laurent	Sanderson
Bronson	Diaz de la Portilla	Lawson	Saunders
Brown-Waite	Dyer	Lee	Sebesta
Burt	Garcia	Meek	Silver
Campbell	Geller	Miller	Smith
Carlton	Holzendorf	Mitchell	Sullivan
Clary	Jones	Peaden	Villalobos
Constantine	King	Posey	Wasserman Schultz
Cowin	Klein	Pruitt	Webster
Crist	Latvala	Rossin	

Excused: Conferees periodically for the purpose of working on the appropriations bills: Senator Horne, Chairman; Senators Rossin, Sullivan, Dyer, Garcia, Holzendorf, Latvala, Miller, Webster, Clary, Jones, King, Laurent, Lawson, Silver, Mitchell, Peaden, Sanderson, Saunders, Cowin, Burt, Dawson, Meek and Villalobos

## PRAYER

The following prayer was offered by Dr. Douglas Dortch, Jr., Pastor, First Baptist Church, Tallahassee:

Almighty and Everlasting God, we thank you for this day and this opportunity that is ours to serve your purposes in our state, our nation and our world. We recognize that our place in life is a calling from you, and that you provide the resources that are necessary for us to carry out your task.

I thank you for this Senate, for every person who is a part of this important body. I pray for each member this morning, that you would grant them wisdom and courage in deciding the matters that are before them. This is a busy week for them, O God, with much for them to accomplish in so little time in which to do it. Remind them of the gravity of these days and help them to be good stewards of the time that is allotted them.

And now, may your abiding presence rest upon everyone here today, that in all this good Senate says and does it will in some way result in the good thing you are in the process of doing in our midst. This we pray in the name of all that is Holy, even your name. Amen.

## PLEDGE

Senate Pages Lauren Thornton of Tallahassee, Emily Holder of Orange Park and Kristen Turnage of Middleburg, led the Senate in the pledge of allegiance to the flag of the United States of America.

## DOCTOR OF THE DAY

The President recognized Dr. Terrence McCoy of Tallahassee, sponsored by Senator Lawson, as doctor of the day. Dr. McCoy specializes in Family Practice.

## MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Lee, by two-thirds vote **SB 454, SB 456, SB 484, SB 486, SB 768, CS for SB 822, CS for SB 892, CS for SB 988, CS for SB 1562, SB 1958, SB 2022, CS for SJR 2236, CS for CS for SB 2178 and CS for SB 2124** were withdrawn from the Committee on Rules and Calendar; **CS for CS for SB 738, CS for CS for SB 856, CS for CS for SB 1204, CS for SB 1560, CS for CS for SB 1664, SB 1738, CS for SB 1750 and CS for SB 1902** were withdrawn from the Committee on Appropriations Subcommittee on General Government; and Appropriations; **CS for SB 620, SB 1238, CS for SB 1458, CS for SB 1734 and SB 1912** were withdrawn from the Committee on Governmental Oversight and Productivity; **SB 254** was withdrawn from the Committees on Finance and Taxation; Appropriations Subcommittee on Health and Human Services; and Appropriations; **CS for SB 422** was withdrawn from the Committees on Appropriations Subcommittee on Education; and Appropriations; **CS for SB 1288** was withdrawn from the Committee on Comprehensive Planning, Local and Military Affairs; **CS for SB 1926** was withdrawn from the Committee on Judiciary; and **CS for SB 1966** was withdrawn from the Committee on Health, Aging and Long-Term Care.

On motion by Senator Lee, by two-thirds vote **HB 1741 and SB 622** which have been reported favorably by the Appropriations Subcommittee on Health and Human Services with amendments, were withdrawn from the Committee on Appropriations and the amendments recommended by the subcommittee will be shown as offered by the Committee on Appropriations; **CS for SJR 2236 and CS for SB 682** which have been reported favorably by the Appropriations Subcommittee on Health and Human Services with committee substitutes, were withdrawn from the Committee on Appropriations and the committee substitutes recommended by the subcommittee will be shown as offered by the Committee on Appropriations; **CS for CS for SB 1092** which has been reported favorably by the Appropriations Subcommittee on Public Safety and Judiciary with amendment, was withdrawn from the Committee on Appropriations and the amendment recommended by the subcommittee will be shown as offered by the Committee on Appropriations; **SB 878, CS for SB 930, CS for SB 1330, CS for SB 934 and SB 1710** which have been reported favorably by the Appropriations Subcommittee on Education were withdrawn from the Committee on Appropriations; **CS for SB 1874** which has been reported favorably by the Appropriations Subcommittee on Education with amendment, was withdrawn from the Committee on Appropriations and the amendment recommended by the subcommittee will be shown as offered by the Committee on Appropriations; **CS for SB 1780 and CS for SB 2172** which have been reported favorably by the Appropriations Subcommittee on Education with committee substitutes, were withdrawn from the Committee on Appropriations and the committee substitutes recommended by the subcommittee will be shown as offered by the Committee on Appropriations; **CS for SB 1002** which has been reported favorably by the Appropriations Subcommittee on Public Safety and Judiciary with committee substitute, was withdrawn from the Committee on Appropriations and the committee

substitute recommended by the subcommittee will be shown as offered by the Committee on Appropriations; **CS for CS for CS for SB's 310 and 380, CS for CS for SB 478, CS for SB 1812, CS for SB 1968 and CS for CS for SB 2224** which have been reported favorably by the Appropriations Subcommittee on General Government with committee substitutes, were withdrawn from the Committee on Appropriations and the committee substitutes recommended by the subcommittee will be shown as offered by the Committee on Appropriations; and **CS for SB 1010** which has been reported favorably by the Appropriations Subcommittee on General Government was withdrawn from the Committee on Appropriations.

## MOTIONS

On motion by Senator Meek, by two-thirds vote **CS for SB 84** which passed April 27 was ordered immediately certified to the House.

## BILLS ON THIRD READING

Consideration of **CS for SB 1704, CS for CS for SB's 1970 and 164, CS for CS for SB 2108 and SJR 1426** was deferred.

**CS for SB 302**—A bill to be entitled An act relating to financing for private not-for-profit institutions of higher education; creating the "Higher Educational Facilities Financing Act"; providing legislative findings and declarations; providing definitions; creating the Higher Educational Facilities Financing Authority; providing for membership of the authority; providing for its powers; providing criteria for and covenants relating to the authorization of the issuance of notes and revenue bonds not obligating the full faith and credit of the authority, any municipality, the state, or any political subdivision thereof; providing for loans from revenue bonds to participating institutions; providing for the validation of revenue bonds; providing for trust funds and remedies of bondholders; providing for a tax exemption; providing for agreement of the state; providing other powers and authorities incident thereto; requiring reports and audits; amending s. 196.012, F.S.; providing that institutions funded by the Higher Educational Facilities Financing Act are educational institutions for purposes of state taxation; providing an effective date.

—was read the third time by title.

## MOTION

On motion by Senator Pruitt, the rules were waived to allow the following amendment to be considered:

Senator Pruitt moved the following amendment which was adopted by two-thirds vote:

**Amendment 1 (752252)(with title amendment)**—Delete every-thing after the enacting clause and insert:

Section 1. *Short title.*—Sections 1-28 of this act may be cited as the "Higher Educational Facilities Financing Act."

Section 2. *Findings and declarations.*—It is the purpose of sections 1-28 of this act to provide a measure of assistance and an alternative method enabling private institutions of higher education of this state to provide the facilities and structures that they need and to enable those institutions to coordinate their budgetary needs with the timing of receipt of tuition revenues.

Section 3. *Definitions.*—As used in sections 1-28 of this act, the term:

(1) "Authority" or "educational facilities authority" means the public corporation created by sections 1-28 of this act.

(2) "Real property" includes all lands, including improvements and fixtures thereon, and any such property appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens. This definition does not affect the classification of property as real property or tangible personal property for purposes of ad valorem taxation under chapters 192 and 193, Florida Statutes, or sales and use taxation under chapter 212, Florida Statutes.

(3) "Project" means a dormitory, student service facility, parking facility, administration building, academic building, or library and includes a loan in anticipation of tuition revenues by an institution of higher education, as defined in subsection (6).

(4) "Cost," as applied to a project or any portion thereof financed under sections 1-28 of this act, includes all or any part of the cost of construction and acquisition of all lands, structures, real property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be removed; the cost of all machinery and equipment, financing charges, and interest before, during, and for a period of 30 months after completion of the construction; provisions for working capital, reserves for principal, interest, and rebate; provisions for extensions, enlargements, additions, and improvements; the cost of engineering, financial, and legal services; the cost of plans, specifications, studies, surveys, estimates of costs and revenues, administrative expenses, expenses necessary to determining the feasibility or practicability of constructing the project; and other expenses necessary for constructing and acquiring the project, financing the construction, and placing the project in operation. In the case of a loan in anticipation of tuition revenues, the term "cost" means the amount of the loan in anticipation of revenues which does not exceed the amount of tuition revenues anticipated to be received by the borrowing institution of higher education in the 1-year period following the date of the loan, plus costs related to the issuance of the loan, or the amount of the bonds, the proceeds of which fund the loans and any related cost of debt service, reserve funds, and rebate associated therewith.

(5) "Bond" or "revenue bond" means a revenue bond of the authority issued under sections 1-28 of this act, including a revenue refunding bond, notwithstanding that it may be secured by mortgage or the full faith and credit of a participating institution of higher education or any other lawfully pledged security of a participating institution of higher education.

(6) "Institution of higher education" means an independent nonprofit college or university which is located in and chartered by the state; which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; which grants baccalaureate degrees; and which is not a state university or state community college.

(7) "Participating institution" means an institution of higher education, as defined in subsection (6), that undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in and permitted by sections 1-28 of this act.

(8) "Loan in anticipation of tuition revenues" means a loan to an institution of higher education under circumstances in which tuition revenues anticipated to be received by the institution in any budget year are estimated to be insufficient at any time during the budget year to pay the operating expenses or other obligations of the institution in accordance with the budget of the institution.

Section 4. *Creation of Higher Educational Facilities Financing Authority.*—

(1) There is created a public body corporate and politic to be known as the Higher Educational Facilities Financing Authority. The authority is constituted as a public instrumentality and the exercise by the authority of the powers conferred by sections 1-28 of this act is considered to be the performance of an essential public function. Chapters 119 and 286, Florida Statutes, apply to the authority.

(2) The authority shall consist of five members to be appointed by the Governor, subject to confirmation by the Senate. One member shall be a trustee, director, officer, or employee of an institution of higher education. Of the members first appointed, one shall serve for 1 year, one for 2 years, one for 3 years, one for 4 years, and one for 5 years, and in each case until his or her successor is appointed and has qualified. Thereafter, the Governor shall appoint for terms of 5 years each a member or members to succeed those whose terms expire. The Governor shall fill any vacancy for an unexpired term. A member of the authority is eligible for reappointment. Any member of the authority may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty. Each member of the authority before entering upon his or her duties shall take and subscribe to the oath or affirmation required by the State Constitution. A record of

each oath must be filed in the office of the Department of State and with the authority.

(3) The authority shall annually elect one of its members as chair and one as vice chair, and shall also appoint an executive director who is not a member of the authority and who serves at the pleasure of the authority and receives compensation as fixed by the authority. The authority may contract for the services of an executive director.

(4) The executive director shall keep a record of the proceedings of the authority and shall be custodian of all books, documents, and papers filed with the authority and of the minute book or journal of the authority and of its official seal. He or she may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that the copies are true copies, and all persons dealing with the authority may rely upon those certificates.

(5) A majority of the members of the authority constitutes a quorum, and the affirmative vote of a majority of the members present at a meeting of the authority is necessary for any action taken by the authority. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under sections 1-28 of this act may be authorized by resolution at any regular or special meeting, and each resolution shall take effect immediately and need not be published or posted.

(6) The members of the authority shall receive no compensation for the performance of their duties, but each member is entitled to reimbursement as provided in s. 112.061, Florida Statutes, for necessary expenses incurred while engaged in the performance of his or her duties.

(7) The authority is assigned to the Department of Education for administrative purposes.

Section 5. Powers of the authority.—The purpose of the authority is to assist institutions of higher education in constructing, financing, and refinancing projects throughout the state and, for this purpose, the authority may:

(1) Exercise all powers granted to corporations under the Florida Business Corporation Act, chapter 607, Florida Statutes.

(2) Have perpetual succession as a body politic and corporate and adopt bylaws for the regulation of its affairs and the conduct of its business.

(3) Adopt an official seal and alter the same at its pleasure.

(4) Maintain an office at any place in the state that it may designate.

(5) Sue and be sued in its own name, and plead and be impleaded.

(6) Make and execute financing agreements, leases, as lessee or as lessor, contracts, deeds, and other instruments necessary or convenient in the exercise of the powers and functions of the authority, including contracts with persons, firms, corporations, federal and state agencies, and other authorities, which state agencies and other authorities are authorized to enter into contracts and otherwise cooperate with the authority to facilitate the financing, construction, leasing, or sale of any project or the institution of any program; engage in sale-leaseback, lease-purchase, lease-leaseback, or other undertakings and provide for the sale of certificates of participation incident thereto; and enter into interlocal agreements in the manner provided in s. 163.01, Florida Statutes.

(7) Determine the location and character of any project to be financed under sections 1-28 of this act and may:

(a) Construct, reconstruct, maintain, repair, and lease the project as lessee or lessor.

(b) Enter into contracts for any of those purposes.

(c) Designate a participating institution as its agent to determine the location and character of a project undertaken by a participating institution under sections 1-28 of this act and, as the agent of the authority, construct, reconstruct, maintain, repair, own, and lease the project as lessee or lessor.

(8) Issue bonds, bond anticipation notes, and other obligations of the authority for any of its corporate purposes, including the provision of funds to pay all or any part of the cost of any project and to fund or refund the cost of any project as provided in sections 1-28 of this act.

(9) Establish rules for the use of a project or any portion thereof and designate a participating institution as its agent to establish rules for the use of a project undertaken by the participating institution.

(10) Employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents as necessary, and fix their compensation.

(11) Receive and accept from any public agency loans or grants for or in aid of the construction of a project or any portion thereof, and receive and accept loans, grants, aid, or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the loans, grants, aid, and contributions are made.

(12) Mortgage any project and the site thereof for the benefit of the holders of revenue bonds issued to finance projects or those providing credit for that purpose.

(13) Make loans to any participating institution for the cost of a project, including a loan in anticipation of tuition revenues, in accordance with an agreement between the authority and the participating institution. However, a loan may not exceed the total cost of the project as determined by the participating institution and approved by the authority.

(14) Make loans to a participating institution to refund outstanding obligations, mortgages, or advances issued, made, or given by the participating institution for the cost of a project.

(15) Charge to and equitably apportion among participating institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred by sections 1-28 of this act.

(16) Contract with an entity as its agent to assist the authority in screening applications of institutions of higher education for loans under sections 1-28 of this act and receive any recommendations the entity may make.

(17) Do all things necessary or convenient to carry out the purposes of sections 1-28 of this act.

Section 6. Payment of expenses.—All expenses incurred in carrying out sections 1-28 of this act are payable solely from funds provided under the authority of sections 1-28 of this act, and the authority may not incur any liability or obligation beyond the extent to which moneys have been provided under sections 1-28 of this act.

Section 7. Acquisition of real property.—The authority may directly, or by and through a participating institution as its agent, acquire by purchase or lease solely from funds provided under sections 1-28 of this act, or by gift or devise, any lands, structures, real property, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying underwater and riparian rights, which are located within the state as it considers necessary or convenient for the construction or operation of a project, upon terms and at prices that are considered by it to be reasonable and that can be agreed upon between it and the owner thereof, and to take title thereto in the name of the authority or in the name of a participating institution as its agent or as an owner and borrower.

Section 8. Conveyance of title or interest to participating institutions.—When the principal of and interest on revenue bonds of the authority issued to finance the cost of a particular project or projects at a participating institution, including any revenue refunding bonds issued to refund and refinance the revenue bonds, have been fully paid and retired, or when adequate provision has been made to pay fully and retire them, and all other conditions of the resolution or trust agreement authorizing and securing the revenue bonds have been satisfied and the lien of the resolution or trust agreement has been released in accordance with the provisions thereof, the authority shall promptly execute deeds and conveyances necessary and required to convey title to the project or projects to the participating institution, free and clear of all liens and encumbrances.

**Section 9. Criteria and requirements.**—In undertaking any project under sections 1-28 of this act, the authority shall be guided by and shall observe the following criteria and requirements:

(1) The project, in the determination of the authority, is appropriate to the needs and circumstances of, and shall make a significant contribution to the purposes of, the authority and sections 1-28 of this act as set forth in the findings and declarations, and shall serve a public purpose by advancing the prosperity and general welfare of the state and the public.

(2) A financing agreement for a project may not be entered into with a participating institution that is not financially responsible and fully capable of and willing to fulfill its obligations under the financing agreement, including the obligations to make payments in the amounts and at the times required; to operate, repair, and maintain at its own expense the project owned or leased; and to serve the purposes of sections 1-28 of this act and any other responsibilities that may be imposed under the financing agreement. In determining the financial responsibility of the participating institution, consideration must be given to the party's ratio of current assets to current liabilities; net worth; endowments; pledges; earning trends; coverage of all fixed charges; the nature of the project involved; its inherent stability; any guarantee of the obligations by some other financially responsible corporation, firm, or person; means by which the bonds are to be marketed to the public; and other factors determinative of the capability of the participating institution, financially and otherwise, to fulfill its obligations consistently with the purposes of sections 1-28 of this act.

(3) Adequate provision must be made for the operation, repair, and maintenance of the project at the expense of the participating institution and for the payment of principal of and interest on the bonds.

(4) The costs to be paid from the proceeds of the bonds are costs of a project within the meaning of sections 1-28 of this act, except for payments included in the purposes for which revenue refunding bonds may be issued under sections 1-28 of this act.

**Section 10. Approval required to issue bonds.**—The authority is created for the purpose of promoting higher education and issuing bonds on behalf of the state, and the Governor may approve any bonds issued by the authority which require approval under federal law.

**Section 11. Notes of authority.**—The authority may issue its negotiable notes for any corporate purpose and renew any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any resolution authorizing notes of the authority or any issue thereof may contain any provisions that the authority is authorized to include in any resolution authorizing revenue bonds of the authority or any issue thereof, and the authority may include in any notes any terms, covenants, or conditions that it is authorized to include in any bonds. All the notes must be payable solely from the revenues of the project to be financed, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

**Section 12. Revenue bonds.**—

(1) The authority may issue its negotiable revenue bonds for any corporate purpose, including the provision of funds to pay all or any part of the cost of any project. In anticipation of the sale of revenue bonds, the authority may issue negotiable bond anticipation notes and may renew them from time to time, but the maximum maturity of any note, including renewals thereof, may not exceed 5 years following the date of issue of the original note. The notes must be paid from any revenues of the authority available therefor or of the project and not otherwise pledged, or from the proceeds of sale of the revenue bonds of the authority in anticipation of which they were issued. The notes must be issued in the same manner as the revenue bonds. The notes and the resolution authorizing them may contain any provisions, conditions, or limitations that a bond resolution of the authority may contain.

(2) The revenue bonds and notes of every issue must be payable solely out of revenues of the authority, including the provision of funds of the participating institution to pay all or any part of the cost of any project, subject only to any agreements with the holders of particular revenue bonds or notes pledging any particular revenues. Notwithstanding that

revenue bonds and notes may be payable from a special fund, they are for all purposes negotiable instruments, subject only to the provisions of the revenue bonds and notes for registration.

(3) The revenue bonds may be issued as serial bonds or as term bonds, or the authority may issue bonds of both types. The revenue bonds must be authorized by resolution of the authority; must bear the date of issuance, the date of maturity, not exceeding 30 years from issuance, and the interest rate of the bonds, which may be a variable rate; must be payable at a specified time; must be in specified denominations; and must be in specified form, carry registration privileges, be executed in a specified manner, be payable in lawful money of the United States at a specified place, and be subject to the terms of redemption, as the resolution provides. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates that may be exchanged for the definitive bonds. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds or coupons ceases to be that officer before the delivery of the bonds, the signature or facsimile is nevertheless valid and sufficient for all purposes as if he or she had remained in office until delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon form or in registered form, or both, as the authority determines. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest; for the reconversion into coupon bonds of any bonds registered as to both principal and interest; and for the interchange of registered and coupon bonds.

(4)(a) The authority may sell such bonds at such price or prices as it may determine to be in the best interest of the state or of the participating institution on behalf of which such bonds are issued, but no such sale shall be made at an average net interest cost rate in excess of the interest rate limitation set forth in s. 215.84(3), Florida Statutes, provided, however, that such bonds may be sold at a reasonable discount to par not to exceed 3 percent. This limitation on discount does not apply to the portion of the discount that constitutes original issue discount.

(b) All of such bonds shall be sold at public sale at such place or places within the state as the authority shall determine to receive proposals for the purchase of such bonds. Notice of such sale shall be published at least once at least 10 days prior to the date of sale in one or more newspapers or financial journals published within or without the state and shall contain such terms as the authority shall deem advisable and proper under the circumstances, provided that if no bids are received at the time and place called for by such notice of sale, or if all bids received are rejected, such bonds may again be offered for public sale by competitive bid or negotiated sale, as provided herein, upon a shorter period of reasonable notice provided for by resolution of the authority. However, unless the public sale by competitive bid of such bonds is required by law, the authority may, by resolution adopted at a public meeting, determine that a negotiated sale of such bonds is in the best interest of the authority, and may negotiate for sale of such bonds to any underwriter designated by the authority.

1. In the resolution authorizing the negotiated sale, the authority shall provide specific findings as to the reasons requiring the negotiated sale.

2. A resolution authorizing a negotiated bond sale may be the same resolution as that authorizing the issuance of such bonds.

(c) All proposals for the purchase of any bonds offered for sale by the authority shall be opened in public. When competitively bid, bonds shall be awarded to the lowest bidder by the official of the authority as provided in the resolution authorizing the issuance of the bonds. The basis of award of a competitive bid may be either the lowest net interest cost or the lowest true interest cost, as set forth in the resolution authorizing the issuance or sale of the bonds.

(5) Any resolution authorizing any revenue bonds may contain provisions, which are a part of the contract with the holders of the revenue bonds to be authorized, as to:

(a) Pledging of all or any part of the revenues of a project or any revenue-producing contract made by the authority with any individual, partnership, corporation, or association or other body, public or private, to secure the payment of the revenue bonds or of any particular issue of revenue bonds, subject to any agreements with bondholders as may then exist.

(b) *The rentals, fees, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.*

(c) *The setting aside of reserves or sinking funds and the regulation and disposition thereof.*

(d) *Limitations on the right of the authority or its agent to restrict and regulate the use of the project.*

(e) *Limitations on the purpose to which the proceeds of sale of any issue of revenue bonds then or thereafter to be issued may be applied and the pledging of the proceeds to secure the payment of the revenue bonds or any issue of the revenue bonds.*

(f) *Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.*

(g) *The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the amount of bonds the holders of which must consent thereto and the manner in which consent may be given.*

(h) *Limitations on the amount of moneys derived from the project to be expended for operating, administrative, or other expenses of the authority.*

(i) *The acts or omissions to act that constitute a default in the duties of the authority to holders of its obligations and provisions for the rights and remedies of the holders in the event of a default.*

(j) *The mortgaging of or granting of a security interest in the project or the site thereof for the purpose of securing the bondholders.*

(6) *Neither the members of the authority nor any person executing the revenue bonds or notes is liable personally on the revenue bonds or notes or is subject to any personal liability or accountability by reason of the issuance thereof.*

(7) *The authority may purchase its bonds or notes out of any funds available therefor. The authority may hold, pledge, cancel, or resell the bonds, subject to and in accordance with agreements with bondholders.*

(8) *Incident to its powers to issue bonds and notes, the authority may enter into interest rate swap agreements, collars, caps, forward securities purchase agreements, delayed delivery bond purchase agreements, and any other financial agreements considered to be in the best interest of the authority.*

**Section 13. Covenants.**—Any resolution authorizing the issuance of bonds may contain any covenants the authority considers advisable, including those provisions set forth in section 12(5), and all those covenants constitute valid and legally binding and enforceable contracts between the authority and the bondholders, regardless of the time of issuance thereof. The covenants may include, without limitation, covenants concerning the disposition of the bond proceeds; the use and disposition of project revenues; the pledging of revenues and assessments; the obligations of the authority with respect to the operation of the project and the maintenance of adequate project revenues; the issuance of additional bonds; the appointment, powers, and duties of trustees and receivers; the acquisition of outstanding bonds and obligations; restrictions on the establishment of competing projects or facilities; restrictions on the sale or disposal of the assets and property of the authority; the maintenance of deposits to assure the payment of the bonds issued under sections 1-28 of this act; acceleration upon default; the execution of necessary instruments; the procedure for amending or abrogating covenants with the bondholders; and any other covenants considered necessary for the security of the bondholders.

**Section 14. Validation.**—Bonds issued pursuant to this act may be validated in the manner provided by law through proceedings instituted by the authority under chapter 75, Florida Statutes. In actions to validate bonds to be issued pursuant to this act, the complaint shall be filed in the circuit court of the county where the seat of state government is situated or, in the discretion of the authority, in the circuit court of the county where the project is to be situated. The notice required to be published by s. 75.06, Florida Statutes, shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall

be served only on the state attorney of the circuit in which the action is pending.

**Section 15. Act furnishes full authority for issuance of bonds.**—Sections 1-28 of this act constitute full authority for the issuance of bonds and the exercise of the powers of the authority provided in sections 1-28 of this act. Any bonds issued by the authority are not secured by the full faith and credit of the state and do not constitute an obligation, either general or special, of the state.

**Section 16. Security of bondholders.**—In the discretion of the authority, any revenue bonds issued under sections 1-28 of this act may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. The trust agreement or the resolution providing for the issuance of revenue bonds may pledge or assign the revenues to be received or the proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. The trust agreement or resolution providing for the issuance of revenue bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly those provisions specifically authorized by sections 1-28 of this act to be included in any resolution of the authority authorizing revenue bonds. Any bank or trust company incorporated under the laws of this state or of any other state or the United States which may legally act as depository of the proceeds of bonds or of revenues or other moneys or security may furnish indemnifying bonds or pledge securities required by the authority, if any. Any trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition, any trust agreement or resolution may contain any other provisions the authority considers reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the trust agreement or resolution may be treated as a part of the cost of the operation of a project.

**Section 17. Payment of bonds.**—Revenue bonds issued under sections 1-28 of this act are not a debt or liability of the authority, any municipality, the state, or any political subdivision thereof, and are not a pledge of the faith and credit of the state, the authority, any municipality, or any political subdivision thereof, but are payable solely from revenues of the authority pertaining to the project relating to the issue; payments by participating institutions of higher education, banks, insurance companies, or others under letters of credit or purchase agreements; investment earnings from funds or accounts maintained under the bond resolution; insurance proceeds; loan funding deposits; proceeds of sales of education loans; proceeds of refunding obligations; and fees, charges, and other revenues of the authority from the project. All revenue bonds must contain on the face thereof a statement to the effect that neither the authority nor any municipality, the state, or any political subdivision thereof is obligated to pay the bond or the interest thereon except from revenues of the project or the portion thereof for which they are issued, and that neither the faith and credit nor the taxing power of the authority, any municipality, the state, or any political subdivision thereof is pledged to the payment of the principal of or the interest on the bonds. The issuance of revenue bonds under sections 1-28 of this act may not directly, indirectly, or contingently obligate the authority, any municipality, the state, or any political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for their payment.

**Section 18. Rates, rents, fees, and charges.**—

(1) *The participating institution may fix, revise, charge, and collect rates, rents, fees, and charges for the use of and for the services furnished or to be furnished by each project and may contract with any person, partnership, association, corporation, or other body, public or private, in respect thereof. The rates, rents, fees, and charges must be fixed and adjusted in respect of the aggregate of rates, rents, fees, and charges from the project so as to provide funds sufficient with other revenues, if any, to:*

(a) *Pay the cost of maintaining, repairing, and operating the project and each portion thereof, to the extent that the payment of the cost has not otherwise been adequately provided for.*

(b) *Pay the principal of and the interest on outstanding revenue bonds of the authority issued in respect of the project as the bonds become due and payable.*

(c) Create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, the revenue bonds of the authority.

(2) A sufficient amount of the revenues derived in respect of a project, except the part of the revenues necessary to pay the cost of maintenance, repair, and operation and to provide reserves and provide for renewals, replacements, extensions, enlargements, and improvements provided for in the resolution authorizing the issuance of any revenue bonds of the authority or in the trust agreement securing them, must be set aside at regular intervals as provided in the resolution or trust agreement in a sinking or other similar fund that is hereby pledged to, and charged with, the payment of the principal of and the interest on the revenue bonds as they become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The pledge must be valid and binding from the time when the pledge is made. The rates, rents, fees, charges, and other revenues or other moneys so pledged and thereafter received by the participating institution must immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority.

(3) The use and disposition of moneys to the credit of a sinking or other similar fund must be subject to the resolution authorizing the issuance of the bonds or of the trust agreement. Except as otherwise provided in the resolution or the trust agreement, the sinking or other similar fund must be a fund for all revenue bonds issued to finance projects at a particular institution of higher education without distinction or priority of one over another. However, the authority in any resolution or trust agreement may provide that the sinking or other similar fund be the fund for a particular project at a participating institution and for payment of the revenue bonds issued to finance that project, and may, additionally, permit and provide for the issuance of revenue bonds having a subordinate lien in respect of the security authorized to other revenue bonds of the authority, and, in such case, the authority may create separate sinking or other similar funds in respect of the subordinate lien bonds.

**Section 19. Trust funds.**—All moneys received under sections 1-28 of this act, whether as proceeds from the sale of bonds or as revenues, are considered to be trust funds to be held and applied solely as provided in sections 1-28 of this act. Any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of sections 1-28 of this act, subject to the provisions of sections 1-28 of this act and the resolution authorizing the bonds of any issue or the trust agreement securing the bonds.

**Section 20. Remedies of bondholders.**—Any holder of revenue bonds issued under sections 1-28 of this act or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, the bonds may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any rights under the laws of the state or granted hereunder or under the resolution or trust agreement, and may enforce and compel the performance of all duties required by sections 1-28 of this act or by the resolution or trust agreement to be performed by the authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of the rates, rents, fees, and charges authorized and required by the provisions of the resolution or trust agreement to be fixed, established, and collected.

**Section 21. Tax exemption.**—The exercise of the powers granted by sections 1-28 of this act is in all respects for the benefit of the people of this state. Because the operation and maintenance of a project by the authority or a participating institution constitutes the performance of an essential public function, neither the authority nor a participating institution is required to pay any taxes or assessments upon or in respect of a project or any property acquired or used by the authority or a participating institution under sections 1-28 of this act or upon the income therefrom, and any bonds issued under sections 1-28 of this act, any security therefor, their transfer, and the income therefrom, including any profit made on the sale thereof, and all notes, mortgages, security agreements, letters of credit, or other instruments that arise out of or are given to secure the repayment of bonds issued in connection with a project financed under sections 1-28 of this act, shall at all times be free from

taxation by the state or any local unit, political subdivision, or other instrumentality of the state. The exemption granted by this section is not applicable to any tax imposed by chapter 220, Florida Statutes, on interest, income, or profits or on debt obligations owned by corporations.

#### Section 22. Refunding bonds.—

(1) The authority may provide for the issuance of revenue bonds of the authority for the purpose of refunding any revenue bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of the revenue bonds, and, if considered advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion thereof.

(2) The proceeds of any revenue bonds issued for the purpose of refunding outstanding revenue bonds may be applied to the purchase or retirement at maturity or redemption of the outstanding revenue bonds on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending the application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date determined by the authority.

(3) Any escrowed proceeds, pending use, may be invested and reinvested in direct obligations of the United States, or in certificates of deposit or time deposits secured by direct obligations of the United States, or in other investments as the resolution authorizing the issuance and sale of the bonds or the trust agreement provides, maturing at the time or times as is appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding revenue bonds to be refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the authority or to the participating institution for use by it in any lawful manner.

(4) The portion of the proceeds of any revenue bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project may be invested and reinvested in direct obligations of the United States, or in certificates of deposit or time deposits secured by direct obligations of the United States, or other investments as the resolution authorizing the issuance and sale of the bonds or the trust agreement provides, maturing not later than the time or times when the proceeds will be needed for the purpose of paying all or any part of the cost. The interest, income, and profits, if any, earned or realized on the investment may be applied to the payment of all or any part of the cost or may be used by the authority or the participating institution in any lawful manner.

(5) All refunding revenue bonds are subject to sections 1-28 of this act in the same manner and to the same extent as other revenue bonds issued under sections 1-28 of this act.

**Section 23. Legal investment.**—Bonds issued by the authority under sections 1-28 of this act are made securities in which all public officers and public bodies of the state and its political subdivisions, and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. The bonds are made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

#### Section 24. Reports; audits.—

(1) The authority shall submit to the Governor and the presiding officers of each house of the Legislature, within 2 months after the end of its fiscal year, a complete and detailed report setting forth:

(a) Its operations and accomplishments.

(b) Its receipts and expenditures during its fiscal year in accordance with the categories or classifications established by the authority for its operating and capital outlay purposes.

(c) *Its assets and liabilities at the end of its fiscal year and the status of reserve, special, or other funds.*

(d) *A schedule of its bonds outstanding at the end of its fiscal year, together with a statement of the principal amounts of bonds issued and redeemed during the fiscal year.*

(e) *Any other information the authority deems appropriate.*

(2) *The authority shall submit, with the annual report required by this section, a copy of an annual financial audit of its accounts and records and an annual compliance audit of its programs conducted by an independent certified public accountant and performed in accordance with generally accepted auditing standards and government auditing standards.*

(3) *The Auditor General may, pursuant to his or her own authority or at the direction of the Legislative Auditing Committee, conduct an audit of the authority or any programs or entities created by the authority.*

**Section 25. State agreement.**—*The state agrees with the holders of any obligations issued under sections 1-28 of this act, and with those parties who may enter into contracts with the authority under sections 1-28 of this act, that the state will not limit or alter the rights vested in the authority until the obligations, together with the interest thereon, are fully met and discharged and the contracts are fully performed on the part of the authority. However, sections 1-28 of this act do not preclude any limitation or alteration if adequate provision is made by law for the protection of the holders of the obligations of the authority or those entering into contracts with the authority. The authority may include this pledge and undertaking for the state in any obligations or contracts.*

**Section 26. Alternative means.**—*Sections 1-28 of this act provide an additional and alternative method for the doing of the things authorized, and shall be regarded as supplemental and additional to powers conferred by other laws; but, except as otherwise specifically provided in sections 1-28 of this act, the issuance of notes, certificates of participation, revenue bonds, and revenue refunding bonds under sections 1-28 of this act need not comply with the requirements of any other law applicable to the issuance of bonds or such obligations. Except as otherwise expressly provided in sections 1-28 of this act, the powers granted to the authority under sections 1-28 of this act are not subject to the supervision or regulation of, and do not require the approval or consent of, any municipality or political subdivision or any commission, board, body, bureau, official, or agency thereof or of the state.*

**Section 27. Liberal construction.**—*Sections 1-28 of this act shall be liberally construed to effectively carry out their purpose.*

**Section 28. Act controlling.**—*To the extent that sections 1-28 of this act are inconsistent with any general statute or special act or part thereof, sections 1-28 control.*

**Section 29. Subsection (5) of section 196.012, Florida Statutes, is amended to read:**

**196.012 Definitions.**—*For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:*

(5) “Educational institution” means a federal, state, parochial, church, or private school, college, or university conducting regular classes and courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Schools, or the Florida Council of Independent Schools; a nonprofit private school the principal activity of which is conducting regular classes and courses of study accepted for continuing postgraduate dental education credit by a board of the Division of Medical Quality Assurance; educational direct-support organizations created pursuant to ss. 229.8021, 240.299, and 240.331; and facilities located on the property of eligible entities which will become owned by those entities on a date certain; and institutions of higher education, as defined under and participating in the Higher Educational Facilities Financing Act.

**Section 30.** This act shall take effect upon becoming a law.  
And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to financing for private not-for-profit institutions of higher education; creating the “Higher Educational Facilities Financing Act”; providing legislative findings and declarations; providing definitions; creating the Higher Educational Facilities Financing Authority; providing for membership of the authority; providing for its powers; providing criteria for and covenants relating to the authorization of the issuance of notes and revenue bonds not obligating the full faith and credit of the authority, any municipality, the state, or any political subdivision thereof; providing for loans from revenue bonds to participating institutions; providing for the validation of revenue bonds; providing for trust funds and remedies of bondholders; providing for a tax exemption; providing for agreement of the state; providing other powers and authorities incident thereto; requiring reports and audits; providing for construction; amending s. 196.012, F.S.; providing that institutions funded by the Higher Educational Facilities Financing Act are educational institutions for purposes of state taxation; providing an effective date.

On motion by Senator Pruitt, **CS for SB 302** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Mr. President	Diaz de la Portilla	Lawson	Saunders
Bronson	Dyer	Lee	Sebesta
Brown-Waite	Garcia	Meek	Silver
Burt	Geller	Miller	Smith
Campbell	Holzendorf	Mitchell	Sullivan
Clary	Jones	Peaden	Villalobos
Constantine	King	Posey	Wasserman Schultz
Cowin	Klein	Pruitt	Webster
Crist	Latvala	Rossin	
Dawson	Laurent	Sanderson	

Nays—None

Vote after roll call:

Yea—Carlton

On motion by Senator Posey, the Senate resumed consideration of—

**SJR 1426**—A joint resolution proposing an amendment to Section 5 of Article XI of the State Constitution relating to approval of constitutional amendments.

—which was previously considered April 27 and amended April 26.

Senator King moved the following amendment which was adopted by two-thirds vote:

**Amendment 1 (651382)**—On page 2, lines 4-15, delete those lines and insert: *by vote of at least 55 percent of the electors voting on the proposed amendment or revision, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.*

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

#### CONSTITUTIONAL AMENDMENT ARTICLE XI, SECTION 5

APPROVAL OF CONSTITUTIONAL AMENDMENTS.—Proposing an amendment to the State Constitution to require approval by 55

On motion by Senator Posey, **SJR 1426** as amended was shown in full as follows:

**SJR 1426**—A joint resolution proposing an amendment to Section 5 of Article XI of the State Constitution relating to approval of constitutional amendments.

*Be It Resolved by the Legislature of the State of Florida:*

That the following amendment to Section 5 of Article XI of the State Constitution is agreed to and shall be submitted to the electors of this



state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

# ARTICLE XI AMENDMENTS

## SECTION 5. Amendment or revision election.—

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution, initiative petition or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

(b) Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

(c) If the proposed amendment or revision is approved by vote of *at least 55 percent of the electors voting on the proposed amendment or revision*, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

## CONSTITUTIONAL AMENDMENT ARTICLE XI, SECTION 5

APPROVAL OF CONSTITUTIONAL AMENDMENTS.—Proposing an amendment to the State Constitution to require approval by 55 percent, rather than a simple majority, of the electors voting on a proposed constitutional amendment.

—and **SJR 1426** as amended was passed by the required constitutional three-fifths vote of the membership, and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Constantine	Lee	Silver
Bronson	Crist	Peaden	Smith
Brown-Waite	Garcia	Posey	Sullivan
Burt	Geller	Pruitt	Villalobos
Campbell	King	Sanderson	Wasserman Schultz
Carlton	Latvala	Saunders	Webster
Clary	Laurent	Sebesta	

Nays—11

Cowin	Holzendorf	Lawson	Mitchell
Dawson	Jones	Meek	Rossin
Dyer	Klein	Miller	

Vote after roll call:

Yea—Diaz de la Portilla

Nay to Yea—Klein

## SPECIAL ORDER CALENDAR

On motion by Senator Brown-Waite—

**CS for SB 660**—A bill to be entitled An act relating to the Money Transmitters' Code; amending s. 560.119, F.S.; eliminating examination fees; shifting the deposit of funds from one trust fund to another; amending s. 560.205, F.S.; providing for application fees; amending s. 560.206, F.S.; providing for an extended registration period; amending s. 560.207, F.S.; revising renewal dates and fees; amending s. 560.208, F.S.; providing for notice of branch location openings and closings; providing fees for branch locations and authorized vendors; amending s. 560.307, F.S.; providing fees and notice of openings and closings of branch locations or

authorized vendors; amending s. 560.308, F.S.; revising renewal dates and fees; repealing s. 560.118(1)(d) and (e), F.S., which provides for examination costs; providing an effective date.

—was read the second time by title.

Senator Brown-Waite moved the following amendment which was adopted:

**Amendment 1 (310544)(with title amendment)**—On page 2, between lines 4 and 5, insert:

Section 2. Subsection (2) of section 560.204, Florida Statutes, is amended to read:

560.204 Requirement of registration.—

(2) A person registered pursuant to this part is permitted to engage in the activities authorized by this part. A person registered pursuant to this part may also engage in the activities authorized under part III and is exempt from the registration fee required by s. 560.307.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 5, after the semicolon (;) insert: amending s. 560.204, F.S.; providing that a person registered under part II of ch. 560, F.S., is exempt from the registration fee required to engage in activities under part III of ch. 560, F.S.;

Pursuant to Rule 4.19, **CS for SB 660** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Villalobos—

**CS for CS for SB 366**—A bill to be entitled An act relating to DNA evidence; creating s. 925.11, F.S.; providing for the examination of DNA evidence collected at the time a crime is investigated; providing a procedure under which a defendant who has been found guilty may petition the trial court to order an examination of DNA evidence; providing guidelines for seeking postsentencing DNA testing; requiring that the court make certain findings; providing for right to appeal; creating s. 943.3251, F.S.; prescribing duties of the Department of Law Enforcement with respect to postsentencing DNA testing; providing an effective date.

—was read the second time by title.

Senator Villalobos moved the following amendment which was adopted:

**Amendment 1 (043518)(with title amendment)**—On page 1, line 29 through page 4, line 26, delete those lines and insert: *and which would exonerate that person or mitigate the sentence that person received.*

(b) *Except as provided in subparagraph 2., a petition for postsentencing DNA testing may be filed or considered:*

1. *Within 2 years following the date that the judgment and sentence in the case becomes final if no direct appeal is taken, within 2 years following the date that the conviction is affirmed on direct appeal if an appeal is taken, within 2 years following the date that collateral counsel is appointed or retained subsequent to the conviction being affirmed on direct appeal in a capital case, or by October 1, 2003, whichever occurs later; or*

2. *At any time if the facts on which the petition is predicated were unknown to the petitioner or the petitioner's attorney and could not have been ascertained by the exercise of due diligence.*

(2) *Method for seeking postsentencing DNA testing.—*

(a) *The petition for postsentencing DNA testing must be made under oath by the sentenced defendant and must include the following:*

1. *A statement of the facts relied on in support of the petition, including a description of the physical evidence containing DNA to be tested and, if known, the present location or the last known location of the evidence and how it was originally obtained;*



2. A statement that the evidence was not previously tested for DNA or a statement that the results of any previous DNA testing were inconclusive and that subsequent scientific developments in DNA testing techniques would likely produce a definitive result;

3. A statement that the sentenced defendant is innocent and how the DNA testing requested by the petition will exonerate the defendant of the crime for which the defendant was sentenced or will mitigate the sentence received by the defendant for that crime;

4. A statement that identification of the defendant is a genuinely disputed issue in the case, and why it is an issue;

5. Any other facts relevant to the petition; and

6. A certificate that a copy of the petition has been served on the prosecuting authority.

(b) Upon receiving the petition, the clerk of the court shall file it and deliver the court file to the assigned judge.

(c) The court shall review the petition and deny it if it is insufficient. If the petition is sufficient, the prosecuting authority shall be ordered to respond to the petition within 30 days.

(d) Upon receiving the response of the prosecuting authority, the court shall review the response and enter an order on the merits of the petition or set the petition for hearing.

(e) Counsel may be appointed to assist the sentenced defendant if the petition proceeds to a hearing and if the court determines that the assistance of counsel is necessary and makes the requisite finding of indigency.

(f) The court shall make the following findings when ruling on the petition:

1. Whether the sentenced defendant has shown that the physical evidence that may contain DNA still exists;

2. Whether the results of DNA testing of that physical evidence would be admissible at trial and whether there exists reliable proof to establish that the evidence has not been materially altered and would be admissible at a future hearing; and

3. Whether there is a reasonable probability that the sentenced defendant would have been acquitted or would have received a lesser sentence if the DNA evidence had been admitted at trial.

(g) If the court orders DNA testing of the physical evidence, the cost of such testing may be assessed against the sentenced defendant unless he or she is indigent. If the sentenced defendant is indigent, the state shall bear the cost of the DNA testing ordered by the court.

(h) Any DNA testing ordered by the court shall be carried out by the Department of Law Enforcement or its designee, as provided in s. 943.3251.

(i) The results of the DNA testing ordered by the court shall be provided to the court, the sentenced defendant, and the prosecuting authority.

(3) Right to appeal; rehearing.—

(a) An appeal from the court's order on the petition for postsentencing DNA testing may be taken by any adversely affected party.

(b) An order denying relief shall include a statement that the sentenced defendant has the right to appeal within 30 days after the order denying relief is entered.

(c) The sentenced defendant may file a motion for rehearing of any order denying relief within 15 days after service of the order denying relief. The time for filing an appeal shall be tolled until an order on the motion for rehearing has been entered.

(d) The clerk of the court shall serve on all parties a copy of any order rendered with a certificate of service, including the date of service.

(4) Preservation of evidence.—

(a) Governmental entities that may be in possession of any physical evidence in the case, including, but not limited to, any investigating law enforcement agency, the clerk of the court, the prosecuting authority, or the Department of Law Enforcement shall maintain any physical evidence collected at the time of the crime for which a postsentencing testing of DNA may be requested.

(b) Except for a case in which the death penalty is imposed, the evidence shall be maintained for at least the period of time set forth in subparagraph (1)(b)1. In a case in which the death penalty is imposed, the evidence shall be maintained for 60 days after execution of the sentence.

(c) A governmental entity may dispose of the physical evidence before the expiration of the period of time set forth in paragraph (1)(b) if all of the conditions set forth below are met.

1. The governmental entity notifies all of the following individuals of its intent to dispose of the evidence: the sentenced defendant, any counsel of record, the prosecuting authority, and the Attorney General.

2. The notifying entity does not receive, within 90 days after sending the notification, either a copy of a petition for postsentencing DNA testing filed pursuant to this section or a request that the evidence not be destroyed because the sentenced defendant will be filing the petition before the time for filing it has expired.

3. No other provision of law or rule requires that the physical evidence be preserved or retained.

And the title is amended as follows:

On page 1, line 11, after the first semicolon (;) insert: providing for preservation of evidence for which testing of DNA may be requested;

Senators Silver and Villalobos offered the following amendment which was moved by Senator Silver and adopted:

**Amendment 2 (041830)(with title amendment)**—On page 5, delete line 9 and insert:

Section 3. Subsection (1) of section 943.325, Florida Statutes, is amended to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person who is convicted or was previously convicted in this state for any offense or attempted offense *enumerated in paragraph (b) defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s. 810.02, s. 812.133, or s. 812.135* and who is either:

1. Still incarcerated, or

2. No longer incarcerated but is within the confines of the legal state boundaries and is on probation, community control, parole, conditional release, control release, or any other type of court-ordered supervision, shall be required to submit two specimens of blood to a Department of Law Enforcement designated testing facility as directed by the department.

(b)1. Chapter 794, chapter 800, s. 782.04, s. 784.045, s. 810.02, s. 812.133, or s. 812.135.

2. Effective July 1, 2002, and contingent upon specific appropriation, s. 812.13 or s. 812.131.

3. Effective July 1, 2003, and contingent upon specific appropriation, chapter 787 or s. 782.07.

4. Effective July 1, 2004, and contingent upon specific appropriation, any forcible felony, as described in s. 776.08, aggravated child abuse, as described in s. 827.03(2), aggravated abuse of an elderly person or a disabled adult, as described in s. 825.102(2), or any felony violation of chapter 790 involving the use or possession of a firearm.

5. Effective July 1, 2005, and contingent upon specific appropriation, any felony offense.

(c) As used in ~~For the purpose of~~ this section, the term "any person" includes ~~shall include~~ both juveniles and adults committed to a county

*in jail or committed to or under the supervision of the Department of Corrections or the Department of Juvenile Justice, including persons incarcerated in a private correctional institution operated under contract pursuant to s. 944.105 or s. 957.03 or committed to a county jail.*

(d) *Effective July 1, 2001, any person who was previously convicted in this state for any offense or attempted offense enumerated in subparagraph (b)1., subparagraph (b)2., or subparagraph (b)3. and who is still incarcerated or in the custody of the Department of Juvenile Justice must submit, not less than 45 days before his or her presumptive date of release from such incarceration or commitment, two specimens of blood as directed by the Department of Law Enforcement to a testing facility designated by the department.*

Section 4. This act shall take effect October 1, 2001, except that this section and section 3 of this act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, delete line 15 and insert: amending s. 943.325, F.S.; requiring the Department of Law Enforcement to add certain felony offenses in a scheduled order to the DNA data bank's enumerated offenses; requiring the Department of Corrections to test certain violent felons in addition to those enumerated in the statute before being released from custody; providing effective dates.

Pursuant to Rule 4.19, **CS for CS for SB 366** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

#### SENATOR MEEK PRESIDING

On motion by Senator Geller—

**CS for CS for SB 144**—A bill to be entitled An act relating to improper activity over the Internet; amending s. 847.001, F.S.; defining the term “child pornography” for purposes of ch. 847, F.S.; clarifying the definition of the term “sexual conduct”; defining the term “transmit”; creating s. 847.0137, F.S.; prohibiting transmissions over the Internet of pornography in specified circumstances; providing penalties; creating s. 847.0139, F.S.; providing immunity from civil liability for reporting child pornography; amending s. 905.34, F.S.; extending the jurisdiction of a statewide grand jury to certain offenses relating to computer pornography and exploitation; providing an effective date.

—was read the second time by title.

Senator Geller moved the following amendment:

**Amendment 1 (044792)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Paragraph (g) of subsection (1) of section 827.071, Florida Statutes, is amended to read:

827.071 Sexual performance by a child; penalties.—

(1) As used in this section, the following definitions shall apply:

(g) “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. *A mother's breastfeeding of her baby does not under any circumstance constitute “sexual conduct.”*

Section 2. Section 847.001, Florida Statutes, is amended to read:

847.001 Definitions.—As ~~When~~ used in this chapter, the term:

(1) “Child pornography” means any image depicting a minor engaged in sexual conduct.

(2)(1) “Computer” means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions and includes any data storage facility or

communications facility directly related to or operating in conjunction with such device. The term also includes: any on-line service, Internet service, or local bulletin board; any electronic storage device, including a floppy disk or other magnetic storage device; or any compact disc that has read-only memory and the capacity to store audio, video, or written materials.

(3)(2) “Deviate sexual intercourse” means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(4)(3) “Harmful to minors” means ~~that quality of~~ any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of ~~in~~ whatever kind or form, depicting of nudity, sexual conduct, or sexual excitement when it:

(a) Predominantly appeals to the prurient, shameful, or morbid interest of minors;

(b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

A mother's breastfeeding of her baby is not under any circumstance “harmful to minors.”

(5)(4) “Minor” means any person under the age of 18 years.

(6)(5) “Nudity” means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute “nudity,” irrespective of whether or not the nipple is covered during or incidental to feeding.

(7)(6) “Person” includes individuals, *children*, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or ~~and~~ combinations.

(8)(7) “Obscene” means the status of material which:

(a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;

(b) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

A mother's breastfeeding of her baby is not under any circumstance “obscene.”

(9)(8) “Sadomasochistic abuse” means flagellation or torture by or upon a person or animal, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from inflicting harm on another or receiving such harm oneself.

(10)(9) “Sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, “sexual battery” does not include an act done for a bona fide medical purpose.

(11)(10) “Sexual bestiality” means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(12)(11) “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast *with the intent to arouse or gratify the sexual desire of either party*; or any act or conduct which constitutes sexual battery or simulates that sexual battery is

being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(13)(12) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(14)(13) "Simulated" means the explicit depiction of conduct described in subsection (12) (14) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

Section 3. Subsection (2) of section 847.0135, Florida Statutes, is amended to read:

847.0135 Computer pornography; penalties.—

(2) COMPUTER PORNOGRAPHY.—A person who:

(a) Knowingly compiles, enters into, or transmits by use means of computer;

(b) Makes, prints, publishes, or reproduces by other computerized means;

(c) Knowingly causes or allows to be entered into or transmitted by use means of computer; or

(d) Buys, sells, receives, exchanges, or disseminates,

any notice, statement, or advertisement of, or any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information; for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section. Any person who violates the provisions of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Section 847.0137, Florida Statutes, is created to read:

847.0137 Transmission of pornography by electronic device or equipment prohibited; penalties.—

(1) For purposes of this section:

(a) "Minor" means any person less than 18 years of age.

(b) "Transmit" means the act of sending and causing to be delivered any image, information, or data from one or more persons or places to one or more other persons or places over or through any medium, including the Internet, by use of any electronic equipment or device.

(2) Notwithstanding ss. 847.012 and 847.0133, any person in this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, to another person in this state or in another jurisdiction commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Notwithstanding ss. 847.012 and 847.0133, any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, to any person in this state commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) This section shall not be construed to prohibit prosecution of a person in this state or another jurisdiction for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section, for the transmission of child pornography, as defined in s. 847.001, to any person in this state.

(5) A person is subject to prosecution in this state pursuant to chapter 910 for any act or conduct proscribed by this section, including a person in a jurisdiction other than this state, if the act or conduct violates subsection (3).

The provisions of this section do not apply to subscription-based transmissions such as list servers.

Section 5. Section 847.0138, Florida Statutes, is created to read:

847.0138 Transmission of material harmful to minors to a minor by electronic device or equipment prohibited; penalties.—

(1) For purposes of this section:

(a) "Known by the defendant to be a minor" means that the defendant had actual knowledge or had reason to believe that the recipient of the communication was a minor.

(b) "Transmit" means to send to a specific individual known by the defendant to be a minor via electronic mail.

(2) Notwithstanding ss. 847.012 and 847.0133, any person in this state who knew or reasonably should have known that he or she was transmitting an image, information, or data that is harmful to minors, as defined in s. 847.001, to a specific individual known by the defendant to be a minor in this state commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Notwithstanding ss. 847.012 and 847.0133, any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting an image, information, or data that is harmful to minors, as defined in s. 847.001, to a specific individual known by the defendant to be a minor in this state commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The provisions of this section do not apply to subscription-based transmissions such as list servers.

Section 6. Section 847.0139, Florida Statutes, is created to read:

847.0139 Immunity from civil liability for reporting child pornography, transmission of child pornography, or any image, information, or data harmful to minors to a minor in this state.—Any person who reports to a law enforcement officer what the person reasonably believes to be child pornography, transmission of child pornography, or any image, information, or data that is harmful to minors to a minor in this state may not be held civilly liable for such reporting. For purposes of this section, such reporting may include furnishing the law enforcement officer with any image, information, or data that the person reasonably believes to be evidence of child pornography, transmission of child pornography, or an image, information, or data that is harmful to minors to a minor in this state.

Section 7. Subsection (7) is added to section 905.34, Florida Statutes, to read:

905.34 Powers and duties; law applicable.—The jurisdiction of a statewide grand jury impaneled under this chapter shall extend throughout the state. The subject matter jurisdiction of the statewide grand jury shall be limited to the offenses of:

(7) Any violation of s. 847.0135, s. 847.0137, or s. 847.0138 relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135, s. 847.0137, or s. 847.0138;

or any attempt, solicitation, or conspiracy to commit any violation of the crimes specifically enumerated above, when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. The statewide grand jury may return indictments and presentments irrespective of the county or judicial circuit where the offense is committed or triable. If an indictment is returned, it shall be certified and transferred for trial to the county where the offense was committed. The powers and duties of, and law applicable to, county grand juries shall apply to a statewide grand jury except when such powers, duties, and law are inconsistent with the provisions of ss. 905.31-905.40.

Section 8. If a court of competent jurisdiction rules that any part of this act is unconstitutional or otherwise ineffective, such ruling shall not affect the other parts of this act and such other parts shall remain effective as though no such ruling has occurred.

Section 9. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2001.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to child pornography and images harmful to minors; amending s. 827.071, F.S.; revising the definition of "sexual conduct"; amending s. 847.001, F.S.; revising and adding definitions; amending s. 847.0135, F.S.; revising the "Computer Pornography and Child Exploitation Act of 1986" to clarify certain penalties; creating s. 847.0137, F.S.; prohibiting transmissions of child pornography and any image, information, or data harmful to minors; providing penalties; creating s. 847.0138, F.S.; prohibiting transmission of material harmful to minors by electronic device or equipment; providing definitions; providing penalties; creating s. 847.0139, F.S.; providing immunity from civil liability for reporting child pornography, transmission of child pornography, or unlawful transmission of any image, information, or data harmful to minors; amending s. 905.34, F.S.; providing jurisdiction of the statewide grand jury over offenses relating to computer pornography, child exploitation, or violations of s. 847.0135, F.S.; providing severability; providing effective dates.

WHEREAS, The Florida Information Service Technology Development Task Force found and recommended that, while the development of information technology is a rapidly expanding enterprise and the issue of transmission of adult and child pornography is difficult to resolve, legislation should be enacted to address the following situations: where a person in or outside of the State of Florida knowingly transmits any type of pornography to a minor in Florida, a crime has occurred and the State of Florida has jurisdiction; where a person in the State of Florida transmits child pornography to anyone in or outside the State of Florida a crime has occurred and the State of Florida has jurisdiction; and where a person outside the State of Florida knowingly transmits child pornography to any person in the State of Florida, a crime has occurred and the State of Florida has jurisdiction, and

WHEREAS, the task force also recommended that legislation be enacted that, while not mandating that a person report child pornography, the transmission of child pornography, or the unlawful transmission of any image, information, or data that is harmful to minors, would grant civil immunity to any person who reports to any law enforcement officer what he or she reasonably believes to be evidence of child pornography, the transmission of child pornography, or the unlawful transmission of any image, information, or data harmful to any minor in this state, and

WHEREAS, the Legislature agrees with the foregoing findings, conclusions, and recommendations of the task force, and finds that legislation enacting the recommendations would facilitate apprehension of persons who transmit child pornography or improperly transmit images harmful to minors while protecting persons from arrest based on unsubstantiated or false accusations or statements or the submission of falsified evidence by the person reporting the transmission, and

WHEREAS, the Legislature further finds that the use of minors in pornographic images is harmful to the physiological, emotional, mental, and social well-being of minors and that the dissemination of such images results in subjecting the minors who are the subject of such images to continuing irreparable injury by creating a perpetual record of their participation in pornographic acts, and

WHEREAS, the Legislature further finds that child pornography and images, information, and data that are harmful to minors are frequently used to entice minors to engage in improper sexual activity, and the use of such means to entice minors in Florida to engage in such sexual activity irreparably harms their physiological, emotional, mental, and social well-being, and

WHEREAS, the Legislature further finds that the advent and growing use of the Internet and other electronic devices has greatly facilitated transmission of child pornography and images, information, and data that are harmful to minors, thus subjecting minors in Florida to an ever-increasing likelihood of being victimized by the purveyors of such, and

WHEREAS, the Legislature further finds that criminalizing the transmission of child pornography and the unlawful transmission of images, information, and data that are harmful to minors is an appropriate means of serving the state's compelling interest in protecting minors in Florida from suffering the irreparable harm they can experience from being subjected to participating in creating the images that are included in such transmissions and from being subjected to receiving the images that are included in such transmissions, and

WHEREAS, the Legislature further finds that the First Amendment would not be violated by legislation prohibiting the transmission of child pornography or the transmission of images harmful to minors to a minor in this state, and

WHEREAS, the Legislature further finds that deterring and punishing the transmission of child pornography and images harmful to minors can and should be accomplished by amending the laws of this state, and

WHEREAS, the Legislature further finds that the laws of this state may be amended to address jurisdictional concerns regarding transmission of child pornography and transmission of images, information, and data harmful to minors to a minor in this state, as those concerns have already been addressed by the Legislature regarding computer-solicitation offenses against minors, and

WHEREAS, the Legislature further finds that the laws of this state may be amended to grant civil immunity to any person who reports to any law enforcement officer what he or she reasonably believes to be child pornography, the transmission of child pornography, or the transmission of images, information, and data that are harmful to minors to a minor in this state, NOW, THEREFORE,

Senator Geller moved the following amendment to **Amendment 1** which was adopted:

**Amendment 1A (115880)**—On page 5, line 21, delete "775.984" and insert: 775.084

Senator Silver moved the following amendment to **Amendment 1** which was adopted:

**Amendment 1B (574872)(with title amendment)**—On page 9, between lines 17 and 18, insert:

Section 9. Section 815.03, Florida Statutes, is amended to read:

815.03 Definitions.—As used in this chapter, unless the context clearly indicates otherwise:

(1) "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network "~~Intellectual property~~" means data, including programs.

(2) "~~Computer program~~" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

(2)(3) "Computer" means an internally programmed, automatic device that performs data processing.

(3) "Computer contaminant" means any set of computer instructions designed to modify, damage, destroy, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. The term includes, but is not limited to, a group of computer instructions commonly called viruses or worms which are self-replicating or self-propagating and which are designed to contaminate other computer programs or computer data; consume computer resources; modify, destroy, record, or transmit data; or in some other fashion usurp the normal operation of the computer, computer system, or computer network.

(4) "Computer network" means any system that provides communications between one or more computer systems and its input or output devices, including, but not limited to, display terminals and printers that are connected by telecommunication facilities.

(5) "Computer program or computer software" means a set of instructions or statements and related data which, when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions.

(6) "Computer services" include, but are not limited to, computer time; data processing or storage functions; or other uses of a computer, computer system, or computer network.

(7) "Computer system" means a device or collection of devices, including support devices, one or more of which contain computer programs,

electronic instructions, or input data and output data, and which perform functions, including, but not limited to, logic, arithmetic, data storage, retrieval, communication, or control. The term does not include calculators that are not programmable and that are not capable of being used in conjunction with external files.

(8) "Data" means a representation of information, knowledge, facts, concepts, computer software, computer programs, or instructions. Data may be in any form, in storage media or stored in the memory of the computer, or in transit or presented on a display device.

(4) ~~"Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system.~~

(5) ~~"Computer system" means a set of related, connected or unconnected, computer equipment, devices, or computer software.~~

(6) ~~"Computer network" means a set of related, remotely connected devices and communication facilities including more than one computer system with capability to transmit data among them through communication facilities.~~

(7) ~~"Computer system services" means providing a computer system or computer network to perform useful work.~~

(9) "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, or marketable security.

(10) "Intellectual property" means data, including programs.

(11)(8) "Property" means anything of value as defined in s. 812.011 and includes, but is not limited to, financial instruments, information, including electronically produced data and computer software and programs in either machine-readable or human-readable form, and any other tangible or intangible item of value.

(9) ~~"Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, or marketable security.~~

(10) ~~"Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.~~

Section 10. Section 815.05, Florida Statutes, is repealed.

Section 11. Section 815.06, Florida Statutes, is amended to read:

815.06 Offenses against computer users.—

(1) Whoever willfully, knowingly, and without authorization:

(a) Accesses or causes to be accessed any computer, computer system, or computer network; ~~or whoever willfully, knowingly, and without authorization~~

(b) Disrupts or denies or causes the denial of computer system services to an authorized user of such computer system services, which, in whole or part, is owned by, under contract to, or operated for, on behalf of, or in conjunction with another;

(c) Destroys, takes, injures, or damages equipment or supplies used or intended to be used in a computer, computer system or computer network;

(d) Destroys, injures, or damages any computer, computer system, or computer network; or

(e) Introduces any computer contaminant into any computer, computer system, or computer network;

commits an offense against computer users.

(2)(a) Except as provided in paragraphs (b) and (c), whoever violates subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Whoever violates subsection (1) and:

1. Damages a computer, computer equipment, computer supplies, a computer system, or a computer network, and the monetary damage or loss incurred as a result of the violation is \$5,000 or greater;

2. Commits the offense for the purpose of devising or executing any scheme or artifice to defraud or obtain property; or

3. Interrupts or impairs a governmental operation or public communication, transportation, or supply of water, gas, or other public service.

commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Whoever violates subsection (1) and the violation endangers human life commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Whoever willfully, knowingly, and without authorization modifies equipment or supplies used or intended to be used in a computer, computer system, or computer network commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4)(a) In addition to any other civil remedy available, the owner or lessee of the computer, computer system, computer network, computer program, computer equipment, computer supplies, or computer data may bring a civil action against any person convicted under this section for compensatory damages.

(b) In any action brought under this subsection, the court may award reasonable attorney's fees to the prevailing party.

(5) Any computer, computer system, computer network, computer software, or computer data owned by a defendant which is used during the commission of any violation of this section or any computer owned by the defendant which is used as a repository for the storage of software or data obtained in violation of this section is subject to forfeiture as provided under sections 932.701-932.704, Florida Statutes.

(6) This section does not apply to any person who accesses his or her employer's computer system, computer network, computer program, or computer data when acting within the scope of his or her lawful employment.

(7) For purposes of bringing a civil or criminal action under this section, a person who causes, by any means, the access to a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system, or computer network in both jurisdictions.

(2)(a) ~~Except as provided in this subsection, an offense against computer users is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(b) ~~If the offense is committed for the purposes of devising or executing any scheme or artifice to defraud or to obtain any property, then the offender is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 12. Subsection (1) of section 16.56, Florida Statutes, is amended to read:

16.56 Office of Statewide Prosecution.—

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a separate "budget entity" as that term is defined in chapter 216. The office may:

(a) Investigate and prosecute the offenses of:

1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, and home-invasion robbery;

2. Any crime involving narcotic or other dangerous drugs;

3. Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment.

ment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

4. Any violation of the provisions of the Florida Anti-Fencing Act;
5. Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;
6. Any crime involving, or resulting in, fraud or deceit upon any person; ~~or~~
7. Any violation of s. 847.0135, relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135; ~~or~~;
8. *Any violation of the provision of chapter 815;*

or any attempt, solicitation, or conspiracy to commit any of the crimes specifically enumerated above. The office shall have such power only when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits.

(b) Upon request, cooperate with and assist state attorneys and state and local law enforcement officials in their efforts against organized crimes.

(c) Request and receive from any department, division, board, bureau, commission, or other agency of the state, or of any political subdivision thereof, cooperation and assistance in the performance of its duties.

Section 13. Section 905.34, Florida Statutes, is amended to read:

905.34 Powers and duties; law applicable.—The jurisdiction of a statewide grand jury impaneled under this chapter shall extend throughout the state. The subject matter jurisdiction of the statewide grand jury shall be limited to the offenses of:

- (1) Bribery, burglary, carjacking, home-invasion robbery, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, and robbery;
- (2) Crimes involving narcotic or other dangerous drugs;
- (3) Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;
- (4) Any violation of the provisions of the Florida Anti-Fencing Act;
- (5) Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;
- (6) *Any violation of the provision of chapter 815;*
- (7)(6) Any crime involving, or resulting in, fraud or deceit upon any person;

or any attempt, solicitation, or conspiracy to commit any violation of the crimes specifically enumerated above, when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. The statewide grand jury may return indictments and presentments irrespective of the county or judicial circuit where the offense is committed or triable. If an indictment is returned, it shall be certified and transferred for trial to the county where the offense was committed. The powers and duties of, and law applicable to, county grand juries shall apply to a statewide grand jury except when such powers, duties, and law are inconsistent with the provisions of ss. 905.31-905.40.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 10, line 20, after "severability;" insert: amending s. 815.03, F.S.; providing definitions; repealing s. 815.05, F.S., relating to definitions; amending s. 815.06, F.S.; creating offenses against computer equipment or supplies, computers, computer system, and computer networks; providing penalties; amending s. 16.56, F.S., adding violations of computer and computer-related crimes under chapter 815, F.S., expanding prosecutorial jurisdiction of the Office of Statewide Prosecution; amending s. 905.34, F.S.; expanding subject matter jurisdiction of the statewide grand jury to include violations of computer and computer-related crimes under chapter 815, F.S.;

Senator Geller moved the following amendment to **Amendment 1** which was adopted:

**Amendment 1C (565102)**—In title, on page 9, lines 28 and 29, delete those lines and insert: An act relating to computer crimes; amending s. 827.071, F.S.;

**Amendment 1** as amended was adopted.

Pursuant to Rule 4.19, **CS for CS for SB 144** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Saunders—

**CS for SB 1318**—A bill to be entitled An act relating to correctional facilities; creating s. 784.074, F.S.; providing penalties for an assault or battery upon specified facility staff; creating s. 784.078, F.S.; defining the terms "facility" and "employee"; defining the offense of battery of facility employee by throwing, tossing, or expelling certain fluids or materials on an employee of a correctional facility of the state or local government or a secure facility operated and maintained by the Department of Corrections or the Department of Juvenile Justice or other facility employee, so as to cause or attempt to cause such employee to come into contact with the fluid or material; providing penalties; amending s. 921.0022, F.S.; providing for ranking the offense of battery of a facility employee for purposes of the Criminal Punishment Code offense severity ranking chart; amending s. 945.35, F.S.; providing an educational requirement for correctional facility inmates on communicable diseases; providing, upon the request of a correctional officer or other employee or any unincarcerated person lawfully present in a correctional facility, for testing of such persons and any inmate who may have transmitted a communicable disease to such persons; providing for results to be communicated to affected parties; providing for access to health care; providing that test results are inadmissible in court cases; requiring the department to adopt rules; amending s. 806.13, F.S.; providing a penalty for damaging specified detention or commitment facilities; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1318** was placed on the calendar of Bills on Third Reading.

On motion by Senator Bronson—

**CS for SB's 1864 and 2086**—A bill to be entitled An act relating to criminal justice; amending s. 943.031, F.S.; renaming the Florida Violent Crime Council as the Florida Violent Crime and Drug Control Council; adding members; revising powers and duties of the council, particularly with respect to money laundering and with drug control; limiting funding that agencies may receive from the council; amending s. 943.042, F.S.; redesignating the Violent Crime Emergency Account as the Violent Crime Emergency and Drug Control Strategy Implementation Account; prescribing uses that may be made of moneys from the account; limiting funding that agencies may receive from the account; requiring rules that provide funding criteria; providing for disqualification of an agency from funding eligibility and for demand for reimbursement by an agency for failure to use funds as authorized; creating s. 943.0582, F.S.; authorizing the expunction under certain circumstances of the arrest record of a minor who successfully completes a prearrest, postarrest, or teen court diversion program; amending s. 985.3065, F.S.; providing for a law enforcement agency or school district to establish a postarrest diversion program; providing for expunction of the arrest of a minor who completes such program; amending ss. 943.0585, 943.059,

F.S.; prescribing additional criminal violations for which a criminal history record may not be expunged or sealed; amending s. 943.325, F.S.; authorizing use of biological specimens other than blood for DNA analysis; authorizing use of trained, nonmedical personnel in collecting specimens; providing for collection of specimens from persons who are required to provide specimens but have never been incarcerated; providing immunity from liability for persons assisting in collecting specimens; authorizing collection of specimens at remote sites; amending s. 760.40, F.S.; exempting tests performed under s. 943.325, F.S., from requirements for informed consent to genetic testing; creating s. 843.167, F.S.; prohibiting the interception of police communications for certain purposes; prohibiting disclosure of police communications; providing presumptions; providing penalties; providing an effective date.

—was read the second time by title.

Senator Bronson moved the following amendment which was adopted:

**Amendment 1 (595944)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Section 943.031, Florida Statutes, is amended to read:

943.031 Florida Violent Crime and Drug Control Council.—The Legislature finds that there is a need to develop and implement a statewide strategy to address violent criminal activity and drug control efforts by state and local law enforcement agencies, including investigations of illicit money laundering. In recognition of this need, the Florida Violent Crime and Drug Control Council is created within the department. The council shall serve in an advisory capacity to the department.

(1) MEMBERSHIP.—The council shall consist of ~~14~~ 12 members, as follows:

- (a) The Attorney General or a designate.
- (b) A designate of the executive director of the Department of Law Enforcement.
- (c) The secretary of the Department of Corrections or a designate.
- (d) The Secretary of Juvenile Justice or a designate.
- (e) The Commissioner of Education or a designate.
- (f) The president of the Florida Network of Victim/Witness Services, Inc., or a designate.
- (g) *The director of the Office of Drug Control within the Executive Office of the Governor, or a designate.*
- (h) *The Comptroller, or a designate.*

(i) ~~(g)~~ Six members appointed by the Governor, consisting of two sheriffs, two chiefs of police, one medical examiner, and one state attorney or their designates.

The Governor, when making appointments under this subsection, must take into consideration representation by geography, population, ethnicity, and other relevant factors to ensure that the membership of the council is representative of the state at large. *Designates appearing on behalf of a council member who is unable to attend a meeting of the council are empowered to vote on issues before the council to the same extent the designating council member is so empowered.*

(2) TERMS OF MEMBERSHIP; OFFICERS; COMPENSATION; STAFF.—

(a) Members appointed by the Governor shall be appointed for terms of 2 years. The other members are standing members of the council. In no event shall a member serve beyond the time he or she ceases to hold the office or employment which was the basis for appointment to the council. In the event of a vacancy, an appointment to fill the vacancy shall be only for the unexpired term.

(b) The Legislature finds that the council serves a legitimate state, county, and municipal purpose and that service on the council is consistent with a member's principal service in a public office or employment. Membership on the council does not disqualify a member from holding any other public office or being employed by a public entity, except that no member of the Legislature shall serve on the council.

(c) The members of the council shall elect a chair and a vice chair every 2 years, to serve for a 2-year term. As deemed appropriate, other officers may be elected by the members.

(d) Members of the council or their designates shall serve without compensation but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061. Reimbursements made pursuant to this paragraph ~~may~~ shall be paid from either the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account within the Department of Law Enforcement Operating Trust Fund or from other appropriations provided to the department by the Legislature in the General Appropriations Act.

(e) The department shall provide the council with staff necessary to assist the council in the performance of its duties.

(3) MEETINGS.—The council must meet at least semiannually. Additional meetings may be held when ~~it is determined deemed appropriate~~ by the chair ~~that extraordinary circumstances require an additional meeting of the council or a majority of the council members~~. A majority of the members of the council constitutes a quorum.

(4) DUTIES OF COUNCIL.—The council shall provide advice and make recommendations, as necessary, to the executive director of the department.

(a) The council may advise the executive director on the feasibility of undertaking initiatives which include, but are not limited to, the following:

1. Establishing a program which provides grants to criminal justice agencies that develop and implement effective violent crime prevention and investigative programs *and which provides grants to law enforcement agencies for the purpose of drug control and illicit money laundering investigative efforts or task force efforts that are determined by the council to significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council established under s. 397.333, subject to the limitations provided in this section.* The grant program ~~may~~ shall include an innovations grant program to provide startup funding for new initiatives by local and state law enforcement agencies to combat violent crime or to implement drug control or illicit money laundering investigative efforts or task force efforts by law enforcement agencies, including, but not limited to, initiatives such as:

- a. ~~Providing Provision of~~ enhanced community-oriented policing.
  - b. ~~Providing Provision of~~ additional undercover officers and other investigative officers to assist with violent crime investigations in emergency situations.
  - c. *Providing funding for multiagency or statewide drug control or illicit money laundering investigative efforts or task force efforts that cannot be reasonably funded completely by alternative sources and that significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council established under s. 397.333.*
2. ~~Creating a criminal justice research and behavioral science center. The center shall provide key support to local law enforcement agencies undertaking unique or emergency violent crime investigations, including the mobilization of special task forces to directly target violent crime in specific areas.~~

2.3. Expanding the use of automated fingerprint identification systems at the state and local level.

3.4. Identifying methods to prevent violent crime.

4. *Identifying methods to enhance multiagency or statewide drug control or illicit money laundering investigative efforts or task force efforts that significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council established under s. 397.333.*



5. Enhancing criminal justice training programs which address violent crime, *drug control*, or *illicit money laundering investigative techniques or efforts*.

6. Developing and promoting crime prevention services and educational programs that serve the public, including, but not limited to:

a. Enhanced victim and witness counseling services that also provide crisis intervention, information referral, transportation, and emergency financial assistance.

b. A well-publicized rewards program for the apprehension and conviction of criminals who perpetrate violent crimes.

7. Enhancing information sharing and assistance in the criminal justice community by expanding the use of community partnerships and community policing programs. Such expansion may include the use of civilian employees or volunteers to relieve law enforcement officers of clerical work in order to enable the officers to concentrate on street visibility within the community.

(b) ~~Additionally~~, The council shall:

1. ~~Receive periodic reports from Advise the executive director on the creation of regional violent crime investigation and statewide drug control strategy implementation coordinating teams which relate to violent crime trends or the investigative needs or successes in the regions, factors and trends relevant to the implementation of the statewide drug strategy, and the results of drug control and illicit money laundering investigative efforts funded in part by the council.~~

2. ~~Maintain and utilize Develop~~ criteria for the disbursement of funds from the Violent Crime *Investigative Emergency and Drug Control Strategy Implementation* Account within the Department of Law Enforcement Operating Trust Fund or other appropriations provided to the Department of Law Enforcement by the Legislature in the General Appropriations Act. The criteria shall allow for the advancement of funds as approved by the council.

3. Review and approve all requests for disbursement of funds from the Violent Crime *Investigative Emergency and Drug Control Strategy Implementation* Account within the Department of Law Enforcement Operating Trust Fund and from other appropriations provided to the department by the Legislature in the General Appropriations Act. An expedited approval procedure shall be established for rapid disbursement of funds in *violent crime* emergency situations.

4. ~~Advise the executive director on the development of a statewide violent crime information system.~~

(5) REPORTS.—The council shall report annually on its activities, on or before December 30 of each calendar year, to the executive director, the President of the Senate, the Speaker of the House of Representatives, and the ~~chairs of the Senate and House committees having principal jurisdiction over criminal law chairs of the Committees on Criminal Justice in both chambers. Comments and responses of the executive director to the report are to be included must respond to the annual report and any other recommendations of the council in writing. All written responses must be forwarded to the council members, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Committees on Criminal Justice in both chambers.~~

(6) VICTIM AND WITNESS PROTECTION REVIEW COMMITTEE.—

(a) The Victim and Witness Protection Review Committee is created within the Florida Violent Crime *and Drug Control* Council, consisting of the statewide prosecutor or a state attorney, a sheriff, a chief of police, and the designee of the executive director of the Department of Law Enforcement. The committee shall be appointed from the membership of the council by the chair of the council after the chair has consulted with the executive director of the Department of Law Enforcement. Committee members shall meet in conjunction with the meetings of the council.

(b) The committee shall:

1. ~~Maintain and utilize Develop~~ criteria for disbursing funds to reimburse law enforcement agencies for costs associated with providing victim and witness protective or temporary relocation services.

2. Review and approve or deny, in whole or in part, all reimbursement requests submitted by law enforcement agencies.

(c) The lead law enforcement agency providing victim or witness protective or temporary relocation services pursuant to the provisions of s. 914.25 may submit a request for reimbursement to the Victim and Witness Protection Review Committee in a format approved by the committee. The lead law enforcement agency shall submit such reimbursement request on behalf of all law enforcement agencies that cooperated in providing protective or temporary relocation services related to a particular criminal investigation or prosecution. As part of the reimbursement request, the lead law enforcement agency must indicate how any reimbursement proceeds will be distributed among the agencies that provided protective or temporary relocation services.

(d) The committee, in its discretion, may use funds available to the committee to provide all or partial reimbursement to the lead law enforcement agency for such costs, or may decline to provide any reimbursement.

(e) *The committee may conduct its meeting by teleconference or conference phone calls when the chair of the committee finds that the need for reimbursement is such that delaying until the next scheduled council meeting will adversely affect the requesting agency's ability to provide the protection services.*

(7) CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL MEETINGS AND RECORDS.—

(a)1. The Legislature finds that during limited portions of the meetings of the Florida Violent Crime *and Drug Control* Council it is necessary that the council be presented with and discuss details, information, and documents related to active criminal investigations or matters constituting active criminal intelligence, as those concepts are defined by s. 119.011. These presentations and discussions are necessary for the council to make its funding decisions as required by the Legislature. The Legislature finds that to reveal the contents of documents containing active criminal investigative or intelligence information or to allow active criminal investigative or active criminal intelligence matters to be discussed in a meeting open to the public negatively impacts the ability of law enforcement agencies to efficiently continue their investigative or intelligence gathering activities. The Legislature finds that information coming before the council that pertains to active criminal investigations or intelligence should remain confidential and exempt from public disclosure. The Legislature finds that the Florida Violent Crime *and Drug Control* Council may, by declaring only those portions of council meetings in which active criminal investigative or active criminal intelligence information is to be presented or discussed closed to the public, assure an appropriate balance between the policy of this state that meetings be public and the policy of this state to facilitate efficient law enforcement efforts.

2. The Legislature finds that it is a public necessity that portions of the meetings of the Florida Violent Crime *and Drug Control* Council be closed when the confidential details, information, and documents related to active criminal investigations or matters constituting active criminal intelligence are discussed. The Legislature further finds that it is no less a public necessity that portions of public records generated at closed council meetings, such as tape recordings, minutes, and notes, memorializing the discussions regarding such confidential details, information, and documents related to active criminal investigations or matters constituting active criminal intelligence, also shall be held confidential.

(b) The Florida Violent Crime *and Drug Control* Council shall be considered a "criminal justice agency" within the definition of s. 119.011(4).

(c)1. The Florida Violent Crime *and Drug Control* Council may close portions of meetings during which the council will hear or discuss active criminal investigative information or active criminal intelligence information, and such portions of meetings shall be exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution, provided that the following conditions are met:

a. The chair of the council shall advise the council at a public meeting that, in connection with the performance of a council duty, it is necessary that the council hear or discuss active criminal investigative information or active criminal intelligence information.

b. The chair's declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a document that shall be a public record and shall be filed with the official records of the council.

c. The entire closed session shall be recorded. The recording shall include the times of commencement and termination of the closed session, all discussion and proceedings, and the names of all persons present. No portion of the session shall be off the record. Such recording shall be maintained by the council, and is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the criminal investigative information or criminal intelligence information that justifies closure ceases to be active, at which time the portion of the record related to the no longer active information or intelligence shall be open for public inspection and copying.

The exemption in this paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2002, unless reviewed and saved from repeal through reenactment by the Legislature.

2. Only members of the council, Department of Law Enforcement staff supporting the council's function, and other persons whose presence has been authorized by *chair* of the council shall be allowed to attend the exempted portions of the council meetings. The council shall assure that any closure of its meetings as authorized by this section is limited so that the general policy of this state in favor of public meetings is maintained.

(d) Those portions of any public record, such as a tape recording, minutes, and notes, generated during that portion of a Florida Violent Crime and Drug Control Council meeting which is closed to the public pursuant to this section, which contain information relating to active criminal investigations or matters constituting active criminal intelligence, are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such criminal investigative information or criminal intelligence information ceases to be active. The exemptions in this paragraph are subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2002, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Subsection (5) of section 943.17, Florida Statutes, is amended to read:

943.17 Basic recruit, advanced, and career development training programs; participation; cost; evaluation.—The commission shall, by rule, design, implement, maintain, evaluate, and revise job-related curricula and performance standards for basic recruit, advanced, and career development training programs and courses. The rules shall include, but are not limited to, a methodology to assess relevance of the subject matter to the job, student performance, and instructor competency.

(5) The commission, in consultation with the Florida Violent Crime and Drug Control Council, shall establish standards for basic and advanced training programs for law enforcement officers in the subjects of investigating and preventing violent crime. After January 1, 1995, every basic skills course required in order for law enforcement officers to obtain initial certification must include training on violent crime prevention and investigations.

Section 3. Section 943.042, Florida Statutes, is amended to read:

943.042 Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account within the Department of Law Enforcement Operating Trust Fund.—

(1) There is created a Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account within the Department of Law Enforcement Operating Trust Fund. The account shall be used to provide emergency supplemental funds to:

(a) State and local law enforcement agencies which are involved in complex and lengthy violent crime investigations, or matching funding to multiagency or statewide drug control or illicit money laundering investigative efforts or task force efforts that significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support

statewide strategies developed by the Statewide Drug Policy Advisory Council established under s. 397.333;

(b) State and local law enforcement agencies which are involved in violent crime investigations which constitute a significant emergency within the state; or

(c) Counties which demonstrate a significant hardship or an inability to cover extraordinary expenses associated with a violent crime trial.

(2) In consultation with the Florida Violent Crime and Drug Control Council, the department must ~~maintain~~ promulgate rules which, at minimum, address the following:

(a) Criteria for determining what constitutes a complex and lengthy violent crime investigation for the purpose of this section.

(b) Criteria for determining those violent crime investigations which constitute a significant emergency within the state for the purpose of this section.

(c) Criteria for determining the circumstances under which counties may receive emergency supplemental funds for extraordinary expenses associated with a violent crime trial under this section.

(d) Guidelines which establish a \$100,000 maximum limit ~~limits~~ on the amount that may be disbursed on a single investigation and a \$200,000 maximum limit on funds that may be provided to a single agency during the agency's fiscal year.

(e) Procedures for law enforcement agencies to use when applying for funds, including certification by the head of the agency that a request complies with the requirements established by the council.

(f) Annual evaluation and audit of the trust fund.

(3) With regard to the funding of drug control or illicit money laundering investigative efforts or task force efforts, the department shall adopt rules which, at a minimum, address the following:

(a) Criteria for determining what constitutes a multiagency or statewide drug control or illicit money laundering investigative effort or task force effort eligible to seek funding under this section.

(b) Criteria for determining whether a multiagency or statewide investigation or task force effort significantly contributes to achieving the state's goals and strategies.

(c) Limitations upon the amount that may be disbursed yearly to a single multiagency or statewide drug control or illicit money laundering investigation or task force effort.

(d) Procedures to utilize when applying for funds, including a required designation of the amount of matching funds being provided by the task force or participating agencies and a signed commitment by the head of each agency seeking funds that funds so designated will be utilized as represented if council funding is provided.

(e) Requirements to expend funds provided by the council in the manner authorized by the council, and a method of accounting for the receipt, use, and disbursement of any funds expended in drug control or illicit money laundering investigative efforts or task force efforts funded in part under the authority of this section.

(f) Requirements for reporting by recipient agencies on the performance and accomplishments secured by the investigative or task force efforts, including a requirement that the reports demonstrate how the state's drug control goals and strategies have been promoted by the efforts, and how other investigative goals have been met, including arrests made by such efforts, results of prosecutions based on such arrests, impact upon organized criminal enterprise structures by reason of such efforts, property or currency seizures made, illicit money laundering operations disrupted or otherwise impacted, forfeiture of assets by reason of such efforts, and anticipated or actual utilization of assets received by reason of a forfeiture based in whole or in part upon an investigation funded in whole or in part by council funds.

(4)(3)(a) Except as permitted in this section, a disbursement from ~~for~~ the Violent Crime Investigative Emergency and Drug Control Strategy

*Implementation Account shall not be used to supplant existing appropriations of state and local law enforcement agencies and counties or to otherwise fund expenditures that are ordinary or reasonably predictable for the operation of a state or local law enforcement agency.*

(b) The moneys placed in the account shall consist of appropriations from the Legislature or moneys received from any other public or private source. Any local law enforcement agency that acquires funds pursuant to the Florida Contraband Forfeiture Act or any other forfeiture action is authorized to donate a portion of such funds to the account.

(c) *Upon a finding by a majority of the members of the council, any unexcused failure by recipient agencies or task forces to utilize funds in the manner authorized by this section and the Florida Violent Crime and Drug Control Council, or to timely provide required accounting records, reports, or other information requested by the council or by the department related to funding requested or provided, shall:*

1. *Constitute a basis for a demand by the council for the immediate return of all or any portion of funds previously provided to the recipient by the council; and*

2. *Result in termination or limitation of any pending funding by the council under this section,*

*and may, upon specific direction of a majority of the council, result in disqualification of the involved agencies or task forces from consideration for additional or future funding for investigative efforts as described in this section for a period of not more than 2 years following the council's action. The council, through the department, is authorized to pursue any collection remedies necessary if a recipient agency fails to return funds as demanded.*

Section 4. Section 943.0585, Florida Statutes, is amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each petition to a court to expunge a criminal history record is complete only when accompanied by:

(a) A certificate of eligibility for expunction issued by the department pursuant to subsection (2).

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never, prior to the date on which the petition is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

2. Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition pertains.

3. Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058, or from any jurisdiction outside the state.

4. Is eligible for such an expunction to the best of his or her knowledge or belief and does not have any other petition to expunge or any petition to seal pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to petitioning the court to expunge a criminal history record, a person seeking to expunge a criminal history record shall apply to the department for a certificate of eligibility for expunction. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for expunction. The department shall issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

(a) Has obtained, and submitted to the department, a written, certified statement from the appropriate state attorney or statewide prosecutor which indicates:

1. That an indictment, information, or other charging document was not filed or issued in the case.

2. That an indictment, information, or other charging document, if filed or issued in the case, was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction.

3. That the criminal history record does not relate to a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in s. 907.041, where the defendant was found guilty of, or pled guilty or nolo contendere to any such offense, or that the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, such an offense as a delinquent act, without regard to whether adjudication was withheld.

(b) Remits a \$75 processing fee to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) Has submitted to the department a certified copy of the disposition of the charge to which the petition to expunge pertains.

(d) Has never, prior to the date on which the application for a certificate of eligibility is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

(e) Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge pertains.

(f) Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058.

(g) Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to expunge pertains.

(h) Is not required to wait a minimum of 10 years prior to being eligible for an expunction of such records because all charges related to

the arrest or criminal activity to which the petition to expunge pertains were dismissed prior to trial, adjudication, or the withholding of adjudication. Otherwise, such criminal history record must be sealed under this section, former s. 893.14, former s. 901.33, or former s. 943.058 for at least 10 years before such record is eligible for expunction.

(3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

(a) In judicial proceedings under this section, a copy of the completed petition to expunge shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to expunge.

(b) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and the arresting agency. The arresting agency is responsible for forwarding the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to expunge to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency which the records of the court reflect has received the criminal history record from the court.

(c) For an order to expunge entered by a court prior to July 1, 1992, the department shall notify the appropriate state attorney or statewide prosecutor of an order to expunge which is contrary to law because the person who is the subject of the record has previously been convicted of a crime or comparable ordinance violation or has had a prior criminal history record sealed or expunged. Upon receipt of such notice, the appropriate state attorney or statewide prosecutor shall take action, within 60 days, to correct the record and petition the court to void the order to expunge. The department shall seal the record until such time as the order is voided by the court.

(d) On or after July 1, 1992, the department or any other criminal justice agency is not required to act on an order to expunge entered by a court when such order does not comply with the requirements of this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor shall take action within 60 days to correct the record and petition the court to void the order. No cause of action, including contempt of court, shall arise against any criminal justice agency for failure to comply with an order to expunge when the petitioner for such order failed to obtain the certificate of eligibility as required by this section or such order does not otherwise comply with the requirements of this section.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity that licenses child care facilities.

(b) Subject to the exceptions in paragraph (a), a person who has been granted an expunction under this section, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge an expunged criminal history record.

(c) Information relating to the existence of an expunged criminal history record which is provided in accordance with paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the existence of a criminal history record ordered expunged to the entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes, and to criminal justice agencies for their respective criminal justice purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6. to disclose information relating to the existence of an expunged criminal history record of a person seeking employment or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment or licensure decisions. Any person who violates this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) STATUTORY REFERENCES.—Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

Section 5. Section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in s. 907.041 may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice

agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(1) **PETITION TO SEAL A CRIMINAL HISTORY RECORD.**—Each petition to a court to seal a criminal history record is complete only when accompanied by:

(a) A certificate of eligibility for sealing issued by the department pursuant to subsection (2).

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never, prior to the date on which the petition is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

2. Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

3. Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, former s. 943.058, or from any jurisdiction outside the state.

4. Is eligible for such a sealing to the best of his or her knowledge or belief and does not have any other petition to seal or any petition to expunge pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) **CERTIFICATE OF ELIGIBILITY FOR SEALING.**—Prior to petitioning the court to seal a criminal history record, a person seeking to seal a criminal history record shall apply to the department for a certificate of eligibility for sealing. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for sealing. The department shall issue a certificate of eligibility for sealing to a person who is the subject of a criminal history record provided that such person:

(a) Has submitted to the department a certified copy of the disposition of the charge to which the petition to seal pertains.

(b) Remits a \$75 processing fee to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) Has never, prior to the date on which the application for a certificate of eligibility is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

(d) Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

(e) Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058.

(f) Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to seal pertains.

(3) **PROCESSING OF A PETITION OR ORDER TO SEAL.**—

(a) In judicial proceedings under this section, a copy of the completed petition to seal shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to seal.

(b) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and to the arresting agency. The arresting agency is responsible for forwarding the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to seal to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency which the records of the court reflect has received the criminal history record from the court.

(c) For an order to seal entered by a court prior to July 1, 1992, the department shall notify the appropriate state attorney or statewide prosecutor of any order to seal which is contrary to law because the person who is the subject of the record has previously been convicted of a crime or comparable ordinance violation or has had a prior criminal history record sealed or expunged. Upon receipt of such notice, the appropriate state attorney or statewide prosecutor shall take action, within 60 days, to correct the record and petition the court to void the order to seal. The department shall seal the record until such time as the order is voided by the court.

(d) On or after July 1, 1992, the department or any other criminal justice agency is not required to act on an order to seal entered by a court when such order does not comply with the requirements of this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor shall take action within 60 days to correct the record and petition the court to void the order. No cause of action, including contempt of court, shall arise against any criminal justice agency for failure to comply with an order to seal when the petitioner for such order failed to obtain the certificate of eligibility as required by this section or when such order does not comply with the requirements of this section.

(e) An order sealing a criminal history record pursuant to this section does not require that such record be surrendered to the court, and such record shall continue to be maintained by the department and other criminal justice agencies.

(4) **EFFECT OF CRIMINAL HISTORY RECORD SEALING.**—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, or to those entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or
6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity which licenses child care facilities.

(b) Subject to the exceptions in paragraph (a), a person who has been granted a sealing under this section, former s. 893.14, former s. 901.33,

or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge a sealed criminal history record.

(c) Information relating to the existence of a sealed criminal record provided in accordance with the provisions of paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the sealed criminal history record to the entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6. to disclose information relating to the existence of a sealed criminal history record of a person seeking employment or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment or licensure decisions. Any person who violates the provisions of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) STATUTORY REFERENCES.—Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

Section 6. Section 943.325, Florida Statutes, is amended to read:

943.325 Blood or other biological specimen testing for DNA analysis.—

(1)(a) Any person who is convicted or was previously convicted in this state for any offense or attempted offense defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s. 810.02, s. 812.133, or s. 812.135 and who is either:

1. Still incarcerated, or

2. No longer incarcerated, or has never been incarcerated, yet but is within the confines of the legal state boundaries and is on probation, community control, parole, conditional release, control release, or any other court-ordered supervision,

shall be required to submit two specimens of blood or other biological specimens approved by the Department of Law Enforcement to a Department of Law Enforcement designated testing facility as directed by the department.

(b) For the purpose of this section, the term "any person" shall include both juveniles and adults committed to or under the supervision of the Department of Corrections or the Department of Juvenile Justice or committed to a county jail.

(2) The withdrawal of blood for purposes of this section shall be performed in a medically approved manner using a collection kit provided by, or accepted by, the Department of Law Enforcement and only by or under the supervision of a physician, registered nurse, licensed practical nurse, or duly licensed medical personnel, or other trained and competent personnel. The collection of other approved biological specimens shall be performed by any person using a collection kit provided by, or accepted by, the Department of Law Enforcement in a manner approved by the department, as directed in the kit, or as otherwise found to be acceptable by the department.

(3) Upon a conviction of any person for any offense under paragraph (1)(a) which results in the commitment of the offender to a county jail, correctional facility, or juvenile facility, the entity responsible for the facility shall assure that the blood specimens or other biological specimens required by this section and approved by the Department of Law Enforcement are promptly secured and transmitted to the Department of Law Enforcement. If the person is not incarcerated following such conviction, the person may not be released from the custody of the court or released pursuant to a bond or surety until the blood specimens or other approved biological specimens required by this section have been taken. The chief judge of each circuit shall, in conjunction with the sheriff or other entity that maintains the county jail, assure implementation of a method to promptly collect required blood specimens or other approved biological specimens and forward the specimens to the Department of Law Enforcement. The Department of Law Enforcement, in

conjunction with the sheriff, the courts, the Department of Corrections, and the Department of Juvenile Justice, shall develop a statewide protocol for securing the blood specimens or other approved biological specimens of any person required to provide specimens under this section. Personnel at the jail, correctional facility, or juvenile facility shall implement the protocol as part of the regular processing of offenders.

(4) If any blood specimens or other approved biological specimens submitted to the Department of Law Enforcement under this section are found to be unacceptable for analysis and use or cannot be used by the department in the manner required by this section, the Department of Law Enforcement may require that another set of blood specimens or other approved biological specimens be taken as set forth in subsection (11).

(5) The Department of Law Enforcement shall provide the specimen vials, mailing tubes, labels, or other appropriate containers and instructions for the collection of blood specimens or other approved biological specimens. The specimens shall thereafter be forwarded to the designated testing facility for analysis to determine genetic markers and characteristics for the purpose of individual identification of the person submitting the sample.

(6) In addition to the specimens required to be submitted under this section, the Department of Law Enforcement may receive and utilize other blood specimens or other approved biological specimens. Any The analysis, when completed, shall be entered into the automated database maintained by the Department of Law Enforcement for such purpose, as provided in this section, and shall not be included in the state central criminal justice information repository.

(7) The results of a DNA analysis and the comparison of analytic results shall be released only to criminal justice agencies as defined in s. 943.045(10), at the request of the agency. Otherwise, such information is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(8) The Department of Law Enforcement and the statewide criminal laboratory analysis system shall establish, implement, and maintain a statewide automated personal identification system capable of, but not limited to, classifying, matching, and storing analyses of DNA (deoxyribonucleic acid) and other biological molecules. The system shall be available to all criminal justice agencies.

(9) The Department of Law Enforcement shall:

(a) Receive, process, and store blood specimen samples or other approved biological specimen samples and the data derived therefrom furnished pursuant to subsection (1), or pursuant to a requirement of supervision imposed by the court or the Parole Commission with respect to a person convicted of any offense specified in subsection (1), or as specified in subsection (6).

(b) Collect, process, maintain, and disseminate information and records pursuant to this section.

(c) Strive to maintain or disseminate only accurate and complete records.

(d) Adopt rules prescribing the proper procedure for state and local law enforcement and correctional agencies to collect and submit blood specimen samples and other approved biological specimen samples pursuant to this section.

(10)(a) The court shall include in the judgment of conviction for an offense specified in this section, or a finding that a person described in subsection (1) violated a condition of probation, community control, or any other court-ordered supervision, an order stating that blood specimens or other approved biological specimens are required to be drawn or collected by the appropriate agency in a manner consistent with this section and, unless the convicted person lacks the ability to pay, the person shall reimburse the appropriate agency for the cost of drawing and transmitting the blood specimens or collecting and transmitting other approved biological specimens to the Florida Department of Law Enforcement. The reimbursement payment may be deducted from any existing balance in the inmate's bank account. If the account balance is insufficient to cover the cost of drawing and transmitting the blood specimens or collecting and transmitting other approved biological specimens to the Florida Department of Law Enforcement, 50 percent of each

deposit to the account must be withheld until the total amount owed has been paid. If the judgment places the convicted person on probation, community control, or any other court-ordered supervision, the court shall order the convicted person to submit to the drawing of the blood specimens *or the collecting of other approved biological specimens* as a condition of the probation, community control, or other court-ordered supervision. For the purposes of a person who is on probation, community control, or any other court-ordered supervision, the collection requirement must be based upon a court order, or as otherwise provided by the person in the absence of a court order. If the judgment sentences the convicted person to time served, the court shall order the convicted person to submit to the drawing of the blood specimens *or the collecting of other approved biological specimens* as a condition of such sentence.

(b) The appropriate agency shall cause the specimens to be drawn *or collected* as soon as practical after conviction but, in the case of any person ordered to serve a term of incarceration as part of the sentence, the specimen shall be drawn *or collected* as soon as practical after the receipt of the convicted person by the custodial facility. For the purpose of this section, the appropriate agency shall be the Department of Corrections whenever the convicted person is committed to the legal and physical custody of the department. Conviction information contained in the offender information system of the Department of Corrections shall be sufficient to determine applicability under this section. The appropriate agency shall be the sheriff or officer in charge of the county correctional facility whenever the convicted person is placed on probation, community control, or any other court-ordered supervision or form of supervised release or is committed to the legal and physical custody of a county correctional facility.

(c) Any person previously convicted of an offense specified in this section, or a crime which, if committed in this state, would be an offense specified in this section, and who is also subject to the registration requirement imposed by s. 775.13, shall be subject to the collection requirement of this section when the appropriate agency described in this section verifies the identification information of the person. The collection requirement of this section does not apply to a person as described in s. 775.13(5).

(d) For the purposes of this section, conviction shall include a finding of guilty, or entry of a plea of *nolo contendere* or guilty, regardless of adjudication or, in the case of a juvenile, the finding of delinquency.

(e) If necessary, the state or local law enforcement or correctional agency having authority over the person subject to the sampling under this section shall assist in the procedure. The law enforcement or correctional officer so assisting may use reasonable force if necessary to require such person to submit to the withdrawal of blood specimens *or the collection of other approved biological specimens*. Any such ~~The~~ withdrawal *or collection* shall be performed in a reasonable manner. A hospital, clinical laboratory, medical clinic, or similar medical institution; a physician, certified paramedic, registered nurse, licensed practical nurse, or other personnel authorized by a hospital to draw blood; a licensed clinical laboratory director, supervisor, technologist, or technician; or any other person who assists a law enforcement officer is not civilly or criminally liable as a result of withdrawing blood specimens according to accepted medical standards when requested to do so by a law enforcement officer or any personnel of a jail, correctional facility, or juvenile detention facility, regardless of whether the convicted person resisted the drawing of blood specimens. *A person other than the subject required to provide the biological specimens who collects or assists in the collection of approved specimens other than blood is not civilly or criminally liable if a collection kit provided by, or accepted by, the Department of Law Enforcement is utilized and the collection is done in a manner approved by the department, as directed in the kit, or is performed in an otherwise reasonable manner.*

(f) If a judgment fails to order the convicted person to submit to the drawing of the blood specimens *or the collecting of other approved biological specimens* as mandated by this section, the state attorney may seek an amended order from the sentencing court mandating the submission of blood specimens *or other approved biological specimens* in compliance with this section. As an alternative, the department, a state attorney, the Department of Corrections, or any law enforcement agency may seek a court order to secure the blood specimens *or other approved biological specimens* as authorized in subsection (11).

(11) If the Department of Law Enforcement determines that a convicted person who is required to submit blood specimens *or other ap-*

*proved biological specimens* under this section has not provided the specimens, the department, a state attorney, or any law enforcement agency may apply to the circuit court for an order that authorizes taking the convicted person into custody for the purpose of securing the required specimens. The court shall issue the order upon a showing of probable cause. Following issuance of the order, the convicted person shall be transported to a location acceptable to the agency that has custody of the person, the blood specimens *or other approved biological specimens* shall be withdrawn *or collected* in a reasonable manner, and the person shall be released if there is no other reason to justify retaining the person in custody. *An agency acting under authority of an order under this section may, in lieu of transporting the convicted person to a collection site, secure the blood specimens or other approved biological specimens at the location of the convicted person in a reasonable manner. If the convicted person resists providing the specimens, reasonable force may be utilized to secure the specimens and any person utilizing such force to secure the specimens or reasonably assisting in the securing of the specimens is not civilly or criminally liable for actions taken.* The agency that takes the convicted person into custody may, but is not required to, transport the person back to the location where the person was taken into custody.

(12) Unless the convicted person has been declared indigent by the court, the convicted person shall pay the actual costs of collecting the blood specimens *or other approved biological specimens* required under this section.

(13) If a court, a law enforcement agency, or the Department of Law Enforcement fails to strictly comply with this section or to abide by a statewide protocol for collecting blood specimens *or other approved biological specimens*, such failure is not grounds for challenging the validity of the collection or the use of a specimen, and evidence based upon or derived from the collected blood specimens *or other approved biological specimens* may not be excluded by a court.

Section 7. Subsection (2) of section 760.40, Florida Statutes, is amended to read:

760.40 Genetic testing; informed consent; confidentiality.—

(2)(a) Except for purposes of criminal prosecution, except for purposes of determining paternity as provided in s. 742.12(1), and except for purposes of acquiring specimens from persons convicted of certain offenses *or as otherwise provided in s. 943.325*, DNA analysis may be performed only with the informed consent of the person to be tested, and the results of such DNA analysis, whether held by a public or private entity, are the exclusive property of the person tested, are confidential, and may not be disclosed without the consent of the person tested. Such information held by a public entity is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) A person who violates paragraph (a) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 8. Section 843.167, Florida Statutes, is created to read:

843.167 *Unlawful use of police communications; enhanced penalties.*—

(1) A person may not:

(a) Intercept any police radio communication by use of a scanner or any other means for the purpose of using that communication to assist in committing a crime or to escape from or avoid detection, arrest, trial, conviction, or punishment in connection with the commission of such crime.

(b) Divulge the existence, contents, substance, purport, effect, or meaning of a police radio communication to any person he or she knows to be a suspect in the commission of a crime with the intent that the suspect may escape from or avoid detention, arrest, trial, conviction, or punishment.

(2) Any person who is charged with a crime and who, during the time such crime was committed, possessed or used a police scanner or similar device capable of receiving police radio transmissions is presumed to have violated paragraph (1)(a).

(3) The penalty for a crime that is committed by a person who violates paragraph (1)(a) shall be enhanced as follows:



(a) A misdemeanor of the second degree shall be punished as if it were a misdemeanor of the first degree.

(b) A misdemeanor of the first degree shall be punished as if it were a felony of the third degree.

(c) A felony of the third degree shall be punished as if it were a felony of the second degree.

(d) A felony of the second degree shall be punished as if it were a felony of the first degree.

(e) A felony of the first degree shall be punished as if it were a life felony.

(4) Any person who violates paragraph (1)(b) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Subsection (3) of section 943.053, Florida Statutes, is amended to read:

943.053 Dissemination of criminal justice information; fees.—

(3) Criminal history information, including information relating to minors, compiled by the Criminal Justice Information Program from intrastate sources shall be available on a priority basis to criminal justice agencies for criminal justice purposes free of charge and, otherwise, to governmental agencies not qualified as criminal justice agencies on an approximate-cost basis. After providing the program with all known identifying information, persons in the private sector may be provided criminal history information upon tender of fees as established and in the manner prescribed by rule of the Department of Law Enforcement. Such fees shall approximate the actual cost of producing the record information. As used in this subsection, the department's determination of actual cost shall take into account the total cost of creating, storing, maintaining, updating, retrieving, improving, and providing criminal history information in a centralized, automated database, including personnel, technology, and infrastructure expenses. Actual cost shall be computed on a fee-per-record basis, and any access to criminal history information by the private sector as provided in this subsection shall be assessed the per-record fee without regard to the quantity or category of criminal history record information requested. Fees may be waived by the executive director of the Department of Law Enforcement for good cause shown.

Section 10. Section 943.0582, Florida Statutes, is created to read:

943.0582 Prearrest, postarrest, or teen court diversion program expunction.—

(1) Notwithstanding any law dealing generally with the preservation and destruction of public records, the department may provide, by rule adopted pursuant to chapter 120, for the expunction of any nonjudicial record of the arrest of a minor who has successfully completed a prearrest or postarrest diversion program for minors as authorized by s. 985.3065.

(2) As used in this section, the term "expunction" shall have the same meaning and effect as in s. 943.0585, except that:

(a) The provisions of s. 943.0585(4)(a) shall not apply, except that the criminal history record of a person whose record is expunged pursuant to this section shall be made available only to criminal justice agencies for the purpose of determining eligibility for prearrest, postarrest or teen court diversion programs, when the record is sought as part of a criminal investigation, or when the subject of the record is a candidate for employment with a criminal justice agency. For all other purposes, a person whose record is expunged pursuant to this section may lawfully deny or fail to acknowledge the arrest or charge covered by the expunged record.

(b) Records maintained by local criminal justice agencies in the county in which the arrest occurred that are eligible for expunction pursuant to this section shall be sealed as the term is used in s. 943.059.

(3) As used in this section, the term "nonviolent misdemeanor" includes simple assault or battery when prearrest or postarrest diversion expunction is approved in writing by the state attorney for the county in which the arrest occurred.

(4) The department shall expunge the nonjudicial arrest record of a minor who has successfully completed a prearrest or postarrest diversion program if that minor:

(a) Submits an application for prearrest or postarrest diversion expunction, on a form promulgated by the department, signed by the minor's parent or legal guardian or by the minor if he or she has reached the age of majority at the time of applying.

(b) Submits the application for prearrest or postarrest diversion expunction no later than 6 months after completion of the diversion program.

(c) Submits to the department, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that he or she has successfully completed that county's prearrest or postarrest diversion program and that participation in the program is strictly limited to minors arrested for a nonviolent misdemeanor who have not otherwise been charged with or found to have committed any criminal offense or comparable ordinance violation.

(d) Participated in a prearrest or postarrest diversion program that expressly authorizes or permits such expunction to occur.

(e) Participated in a prearrest or postarrest diversion program based on an arrest for a nonviolent misdemeanor that would not qualify as an act of "domestic violence" as that term is defined in s. 741.28.

(f) Has never, prior to filing the application for expunction, been charged with or been found to have committed any criminal offense or comparable ordinance violation.

(5) The department is authorized to charge a \$75 processing fee for each request received for prearrest or postarrest diversion program expunction, for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(6) This section shall operate retroactively to permit the expunction of any nonjudicial record of the arrest of a minor who has successfully completed a prearrest or postarrest diversion program on or after July 1, 2000, provided that, in the case of a minor whose completion of the program occurred before the effective date of this act, the application for prearrest or postarrest diversion expunction is submitted no later than 6 months after the effective date of this act.

(7) Expunction or sealing granted pursuant to this section shall not preclude the minor who receives such relief from petitioning for the expunction or sealing of a later criminal history record as provided for in ss. 943.0585 and 943.059, provided he or she is otherwise eligible under those sections.

Section 11. Section 985.3065, Florida Statutes, is amended to read:

985.3065 Prearrest or postarrest diversion programs.—

(1) A law enforcement agency or school district, in cooperation with the state attorney, may establish a prearrest or postarrest diversion program.

(2) As part of the prearrest or postarrest diversion program, a child who is alleged to have committed a delinquent act may be required to surrender his or her driver's license, or refrain from applying for a driver's license, for not more than 90 days. If the child fails to comply with the requirements of the program, the state attorney may notify the Department of Highway Safety and Motor Vehicles in writing to suspend the child's driver's license for a period that may not exceed 90 days.

(3) The prearrest or postarrest diversion program may, upon agreement of the agencies that establish the program, provide for the expunction of the nonjudicial arrest record of a minor who successfully completes such a program pursuant to s. 943.0582.

Section 12. This act shall take effect July 1, 2001.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to law enforcement; amending s. 943.031, F.S.; renaming the Florida Violent Crime Council as the Florida Violent

Crime and Drug Control Council; revising membership; providing circumstances for additional meetings; prescribing the duties and responsibilities of the Florida Violent Crime and Drug Control Council; providing statutory limits on funding of investigative efforts by the council; authorizing the Victim and Witness Protection Review Committee to conduct meetings by teleconference under certain circumstances; amending s. 943.17, F.S.; conforming a reference; amending s. 943.042, F.S.; renaming the Violent Crime Emergency Account as the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account; revising provisions relating to use of emergency supplemental funds; clarifying limits on disbursement of funds for certain purposes; requiring the Department of Law Enforcement to adopt rules pertaining to certain investigations; requiring reports by recipient agencies; providing circumstances for limitation or termination of funding or return of funds by recipient agencies; amending s. 943.0585, F.S., relating to court-ordered expunction of certain criminal history records; adding sexual offenses that require an offender to register with the state to the list of excluded offenses; amending s. 943.059, F.S., relating to court-ordered sealing of certain criminal history records; adding offenses relating to sexual offenses that require an offender to register with the state to the list of excluded offenses; amending s. 943.325, F.S.; permitting collection of approved biological specimens other than blood for purposes of DNA testing; permitting collection of specimens from certain persons who have never been incarcerated; limiting liability; authorizing use of force to collect specimens under certain circumstances; amending s. 760.40, F.S., to conform to changes made by s. 943.325, F.S.; creating s. 843.167, F.S.; prohibiting the interception of police communications for certain purposes; prohibiting disclosure of police communications; providing presumptions; providing penalties; amending s. 943.053, F.S.; providing clarification of the manner in which the Department of Law Enforcement determines the actual cost of producing criminal history information; creating s. 943.0582, F.S.; providing for prearrest, postarrest, or teen court diversion program expunction under certain circumstances; providing definitions; providing for retroactive effect; amending s. 985.3065, F.S.; providing for postarrest diversion programs; providing for expunction of certain records pursuant to s. 943.0582, F.S.; providing an effective date.

Pursuant to Rule 4.19, **CS for SB's 1864 and 2086** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Laurent—

**CS for SB 1932**—A bill to be entitled An act relating to controlled substances; authorizing the creation of a pilot program in Orange County to intercept illegal drug shipments through package delivery services; amending ss. 823.10, 823.01, F.S.; providing that a person who willfully maintains a place where controlled substances are unlawfully kept, sold, or delivered commits the offense of keeping or maintaining a public nuisance; providing a penalty; amending s. 877.111, F.S., relating to inhalation, ingestion, sale, purchase, or transfer of certain harmful chemical substances; providing exceptions to applications of offenses relating to unlawful distribution, sale, purchase, transfer, or possession of nitrous oxide; amending s. 893.03, F.S., relating to controlled substance standards and schedules; adding 4-methoxymethamphetamine, 1, 4-Butanediol, Gamma-butyrolactone (GBL), Gamma-hydroxybutyric acid (GBH), methaqualone, and mecloqualone to Schedule I; deleting 1, 4-Butanediol and Gamma-hydroxybutyric acid from Schedule II; adding drug products containing Gamma-hydroxybutyric acid which are approved under the Federal Food, Drug, and Cosmetic Act to Schedule III; amending s. 893.033, F.S., relating to listed chemicals; adding chloroephedrine and chloropseudoephedrine to the list of precursor chemicals; amending s. 893.135, F.S., relating to drug trafficking; creating offenses for trafficking in Gamma-butyrolactone (GBL) and lysergic acid diethylamide (LSD); providing penalties; amending scheduling references for trafficking in Gamma-hydroxybutyric acid (GHB) and 1, 4-Butanediol; providing effective dates.

—was read the second time by title.

Senator Laurent moved the following amendment which was adopted:

**Amendment 1 (824276)(with title amendment)**—On page 2, line 23 through page 3, line 6, delete those lines and insert:

823.10 Place where controlled substances are illegally kept, sold, or used declared a public nuisance.—

(1) Any store, shop, warehouse, dwelling house, building, *structure*, vehicle, ship, boat, vessel, or aircraft, or any place whatever, which is visited by persons for the purpose of unlawfully using any substance controlled under chapter 893 or any drugs as described in chapter 499, or which is used for the illegal keeping, selling, or delivering of the same, shall be deemed a public nuisance. No person shall keep or maintain such public nuisance or aid and abet another in keeping or maintaining such public nuisance. *Any person who willfully keeps or maintains a public nuisance or willfully aids or abets another in keeping or maintaining a public nuisance, and such public nuisance is a warehouse, structure, or building, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

And the title is amended as follows:

On page 1, lines 7 and 8, delete those lines and insert: that a person who willfully keeps or maintains or aids or abets another in keeping or maintaining certain types of places where controlled substances are unlawfully used,

Pursuant to Rule 4.19, **CS for SB 1932** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala—

**CS for SB 1956**—A bill to be entitled An act relating to motor vehicles dealers; providing definitions; prohibiting certain unfair or deceptive acts by such dealers; requiring the trial court to consider certain information when awarding attorney's fees; repealing s. 320.27(9)(n), F.S., relating to licensure sanctions for dealers who fail to disclose certain new vehicle damages to a purchaser; providing an effective date.

—was read the second time by title.

Senator Latvala moved the following amendments which were adopted:

**Amendment 1 (702818)(with title amendment)**—On page 1, line 13, insert:

Section 1. Subsection (1) of section 320.01, Florida Statutes, is amended to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(1) "Motor vehicle" means:

(a) An automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, or mopeds.

(b) A recreational vehicle-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Recreational vehicle-type units, when traveling on the public roadways of this state, must comply with the length and width provisions of s. 316.515, as that section may hereafter be amended. As defined below, the basic entities are:

1. The "travel trailer," which is a vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use. It has a body width of no more than 8½ feet and an overall body length of no more than 40 feet when factory-equipped for the road.

2. The "camping trailer," which is a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

3. The “truck camper,” which is a truck equipped with a portable unit designed to be loaded onto, or affixed to, the bed or chassis of the truck and constructed to provide temporary living quarters for recreational, camping, or travel use.

4. The “motor home,” which is a vehicular unit which does not exceed ~~the 40 feet in length, and the height, and the width limitations provided in s. 316.515,~~ is a self-propelled motor vehicle, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.

5. The “private motor coach,” which is a vehicular unit which does not exceed the length, width, and height limitations provided in s. 316.515(9), is built on a self-propelled bus type chassis having no fewer than three load-bearing axles, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.

6. The “van conversion,” which is a vehicular unit which does not exceed the length and width limitations provided in s. 316.515, is built on a self-propelled motor vehicle chassis, and is designed for recreation, camping, and travel use.

7. The “park trailer,” which is a transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface of the exterior stud walls at the level of maximum dimensions, not including any bay window, does not exceed 400 square feet when constructed to ANSI A-119.5 standards, and 500 square feet when constructed to United States Department of Housing and Urban Development Standards. The length of a park trailer means the distance from the exterior of the front of the body (nearest to the drawbar and coupling mechanism) to the exterior of the rear of the body (at the opposite end of the body), including any protrusions.

8. The “fifth-wheel trailer,” which is a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed 400 square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

Section 2. Subsection (2) of section 320.699, Florida Statutes, is amended to read:

320.699 Administrative hearings and adjudications; procedure.—

(2) If a written objection or notice of protest is filed with the department under paragraph (1)(b), a hearing shall be held within 180 days of the date of filing of the first objection or notice of protest, unless the time is extended by the *Administrative Law Judge for good cause shown*. *This subsection shall govern the schedule of hearings in lieu of any other provision of law with respect to administrative hearings conducted by the Department of Highway Safety and Motor Vehicles or the Division of Administrative Hearings, including performance standards of state agencies, which may be included in current and future appropriations acts. hearing officer for good cause shown. If a hearing is not scheduled within said time, any party may request such hearing which shall be held forthwith by the hearing officer.*

Section 3. Section 681.115, Florida Statutes, is amended to read:

681.115 Certain agreements void.—Any agreement entered into by a consumer that waives, limits, or disclaims the rights set forth in this chapter, *or that requires a consumer not to disclose the terms of such agreement as a condition thereof,* is void as contrary to public policy. The rights set forth in this chapter shall extend to a subsequent transferee of such motor vehicle.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to motor vehicles; amending s. 320.01, F.S.; conforming the length limitation for a motor home to that established in ch. 316, F.S.; amending s. 320.699, revising provisions relating to administrative hearings; amending s. 681.115,

F.S.; providing that a motor vehicle sales agreement that prohibits disclosure of its terms is void;

**Amendment 2 (342718)**—On page 6, line 15 delete “320.60(10)” and insert: 319.001(4)

Pursuant to Rule 4.19, **CS for SB 1956** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

**SB 106**—A bill to be entitled An act relating to children and families; creating s. 752.011, F.S.; providing for court-ordered visitation for grandparents and great-grandparents under certain circumstances; providing for appointment of a guardian ad litem and family mediation if the court makes a preliminary finding that the minor is threatened with demonstrable significant mental or emotional harm without such visitation; requiring court-ordered evaluation of the child if mediation fails; providing for a hearing to determine whether the minor is threatened with demonstrable significant mental or emotional harm; providing criteria for such a determination; providing for attorney's fees and costs; applying the Uniform Child Custody Jurisdiction Act; repealing s. 752.01, F.S., relating to grandparental visitation; encouraging consolidation of actions under ss. 61.13, 752.011, F.S.; amending ss. 752.015, 752.07, F.S., to conform cross-references; amending s. 39.01, F.S.; including references to great-grandparents in definitions relating to dependent children; amending s. 39.509, F.S.; providing for great-grandparents' visitation rights; amending ss. 39.801, 63.0425, F.S.; providing for a great-grandparent's right to adopt; amending s. 61.13, F.S.; providing for great-grandparents' visitation rights and standing with regard to evaluating custody arrangements; conforming this section to provisions of this act; amending s. 63.172, F.S.; conforming references relating to great-grandparental visitation rights under ch. 752, F.S.; providing an effective date.

—was read the second time by title.

On motion by Senator Campbell, further consideration of **SB 106** was deferred.

On motion by Senator Carlton—

**CS for CS for SB 374**—A bill to be entitled An act relating to elderly persons and disabled adults; amending s. 825.101, F.S.; defining the term “position of trust and confidence”; amending s. 772.11, F.S.; prescribing civil remedies for theft and other offenses in which the victim is an elderly person or disabled adult; providing that a violation of patient rights is not a cause of action under the act; providing for continuation of a cause of action upon the death of the elderly person or disabled adult; authorizing the court to advance a trial on the docket which involves a victim who is an elderly person or disabled adult; creating s. 744.1083, F.S.; providing guidelines for the registration of public guardians; authorizing rulemaking; amending s. 744.534, F.S.; revising provisions relating to disposition of unclaimed funds; amending s. 744.703, F.S.; authorizing the establishment of public guardian offices; providing for the staffing of offices; creating s. 744.7082, F.S.; defining the term “direct-support organization”; providing for the purposes of a direct-support organization; providing an effective date.

—was read the second time by title.

Senator Carlton moved the following amendment which was adopted:

**Amendment 1 (623098)(with title amendment)**—On page 5, between lines 18 and 19, insert:

(5) *A trust company incorporated under the laws of this state, a state banking corporation or state savings association authorized and qualified to exercise fiduciary powers in this state, or a national banking association or federal savings and loan association authorized and qualified to exercise fiduciary powers in this state, may, but shall not be required to, register as a professional guardian under this subsection.*

And the title is amended as follows:

On page 1, line 17, after the second semicolon (;) insert: authorizing certain financial institutions to register;

Senator Rossin offered the following amendment which was moved by Senator Carlton and adopted:

**Amendment 2 (840922)(with title amendment)**—On page 8, between lines 12 and 13, insert:

Section 7. Section 744.387, Florida Statutes, is amended to read:

744.387 Settlement of claims.—

(1) When a settlement of any claim by or against the guardian, whether arising as a result of personal injury or otherwise, and whether arising before or after appointment of a guardian, is proposed, but before an action to enforce it is begun, on petition by the guardian of the property stating the facts of the claim, question, or dispute and the proposed settlement, and on any evidence that is introduced, the court may enter an order authorizing the settlement if satisfied that the settlement will be for the best interest of the ward. The order shall relieve the guardian from any further responsibility in connection with the claim or dispute when the settlement has been made in accordance with the order. The order authorizing the settlement may also determine whether an additional bond is required and, if so, shall fix the amount of it.

(2) In the same manner as provided in subsection (1) or as authorized by s. 744.301, the natural guardians or guardian of a minor may settle any claim by or on behalf of a minor that does not exceed \$15,000 ~~\$5,000~~ without bond. A legal guardianship shall be required when the amount of the net settlement to the ward exceeds \$15,000 ~~\$5,000~~.

(3)(a) No settlement after an action has been commenced by or on behalf of a ward shall be effective unless approved by the court having jurisdiction of the action.

(b) In the event of settlement or judgment in favor of the ward or minor, the court may authorize the natural guardians or guardian, or a guardian of the property appointed by a court of competent jurisdiction, to collect the amount of the settlement or judgment and to execute a release or satisfaction. When the amount of net settlement to the ward or judgment exceeds \$15,000 ~~\$5,000~~ and no guardian has been appointed, the court shall require the appointment of a guardian for the property.

(4) In making a settlement under court order as provided in this section, the guardian is authorized to execute any instrument that may be necessary to effect the settlement. When executed, the instrument shall be a complete release of the person making the settlement.

Section 8. Subsections (2) and (4) of section 744.301, Florida Statutes, are amended to read:

744.301 Natural guardians.—

(2) The natural guardian or guardians are authorized, on behalf of any of their minor children, to settle and consummate a settlement of any claim or cause of action accruing to any of their minor children for damages to the person or property of any of said minor children and to collect, receive, manage, and dispose of the proceeds of any such settlement and of any other real or personal property distributed from an estate or trust or proceeds from a life insurance policy to, or otherwise accruing to the benefit of, the child during minority, when the amount involved in any instance does not exceed \$15,000 ~~\$5,000~~, without appointment, authority, or bond.

(4)(a) In any case where a minor has a claim for personal injury, property damage, or wrongful death in which the gross settlement for the claim of the minor ~~equals or exceeds~~ \$15,000 ~~\$10,000~~, the court may, prior to the approval of the settlement of the minor's claim, appoint a guardian ad litem to represent the minor's interests. In any case in which the gross settlement involving a minor equals or exceeds \$25,000, the court shall, prior to the approval of the settlement of the minor's claim, appoint a guardian ad litem to represent the minor's interests. The appointment of the guardian ad litem must be without the necessity of bond or a notice. The duty of the guardian ad litem is to protect the minor's interests. The procedure for carrying out that duty is as prescribed in the Florida Probate Rules. If a legal guardian of the minor has previously been appointed and has no potential adverse interest to the minor, the court may not appoint a guardian ad litem to represent the minor's interests, unless the court determines that the appointment is otherwise necessary.

(b) Unless waived, the court shall award reasonable fees and costs to the guardian ad litem to be paid out of the gross proceeds of the settlement.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 25, after the semicolon (;) insert: amending s. 744.387, F.S.; raising the amount of a claim that may be settled by a natural guardian of a minor without the necessity of appointment of a legal guardian; amending s. 744.301, F.S.; raising the amount of a claim that may be settled by a natural guardian of a minor without the necessity of appointment of a guardian ad litem;

Pursuant to Rule 4.19, **CS for CS for SB 374** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Villalobos—

**CS for SB 1084**—A bill to be entitled An act relating to medical malpractice presuit investigations; amending s. 766.104, F.S.; authorizing the release of certain records relating to medical care and treatment of a decedent upon the request of certain persons; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1084** was placed on the calendar of Bills on Third Reading.

On motion by Senator King, consideration of **CS for SB 1286** was deferred.

On motion by Senator Saunders—

**CS for SB 1558**—A bill to be entitled An act relating to health care practitioner regulation; providing legislative intent and findings with respect to the Medical Quality Assurance Trust Fund and function administered by the Department of Health; requiring the Auditor General to do a followup Medical Quality Assurance audit and issue a report to the Legislature; requiring the Office of Program Policy Analysis and Government Accountability to study the feasibility of maintaining the Medical Quality Assurance function within a single department and issue a report to the Legislature; requiring the Department of Health to reimburse the Agency for Health Care Administration for certain costs; amending s. 456.004, F.S.; providing requirements for rules relating to biennial renewal of licenses; amending s. 456.025, F.S.; revising requirements relating to the setting and use of fees for the regulation of health care professions and practitioners, including continuing education fees; providing for an electronic continuing-education tracking system; amending ss. 457.107, 483.807, F.S.; conforming provisions relating to fees; repealing s. 458.31151, F.S., relating to development of the examination for foreign-trained physicians and the fees therefor; amending s. 456.011, F.S.; requiring board meetings to be conducted through teleconferencing or other technological means except under certain circumstances; amending s. 456.013, F.S.; requiring the department to charge initial license fees; amending s. 456.017, F.S.; providing for administration of national examinations and termination of state-administered written examinations; providing for administration of state-administered practical or clinical examinations if paid for in advance by the examination candidates; providing legislative intent with respect to the use of national examinations and the removal of state-administered examinations as a barrier to licensure; providing for electronic access to and posting of examination scores under certain conditions; providing for the sharing of examinations or examination-item banks with certain entities; providing for review of questions by legal counsel under certain circumstances; providing for electronic administration of examinations; amending s. 456.035, F.S.; providing for electronic notification of a licensee's current mailing address and place of practice; amending s. 456.073, F.S.; prohibiting a letter of guidance in lieu of a finding of probable cause under certain conditions; amending s. 456.081, F.S.; providing for publication of information; amending s. 456.072, F.S.; revising and providing grounds for discipline of licensees; revising provisions governing and providing for disciplinary actions; amending s. 456.079,

F.S.; requiring mitigating or aggravating circumstances to be in the final order to be considered in the imposition of penalties; amending ss. 457.109, 458.320, 458.331, 459.0085, 459.015, 460.413, 461.013, 462.14, 463.016, 464.018, 465.016, 466.028, 466.037, 467.203, 468.1295, 468.1755, 468.217, 468.365, 468.518, 468.719, 468.811, 478.52, 480.046, 483.825, 483.901, 484.014, 484.056, 486.125, 490.009, 491.009, F.S.; conforming provisions relating to disciplinary actions; repealing s. 483.827, F.S., relating to administrative penalties applicable to clinical laboratory personnel; amending s. 456.074, F.S.; providing for immediate suspension of licenses for violations relating to fraudulent practices; amending s. 464.005, F.S.; providing for future relocation of the headquarters of the Board of Nursing; providing effective dates.

—was read the second time by title.

Senator Saunders moved the following amendment which was adopted:

**Amendment 1 (353272)(with title amendment)**—On page 164, between lines 12 and 13, insert:

Section 51. Subsection (6) is added to section 456.003, Florida Statutes, to read:

456.003 Legislative intent; requirements.—

*(6) Unless expressly and specifically granted in statute, the duties conferred on the boards do not include the enlargement, modification, or contravention of the lawful scope of practice of the profession regulated by the boards. This subsection shall not prohibit the boards, or the department when there is no board, from taking disciplinary action or issuing a declaratory statement.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 21, after the semicolon (;) insert: amending s. 456.003, F.S.; providing a limitation on the duties of certain boards;

Pursuant to Rule 4.19, **CS for SB 1558** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Saunders—

**SB 414**—A bill to be entitled An act relating to public records; amending s. 408.185, F.S.; abrogating the repeal of provisions relating to confidential information submitted to the Office of the Attorney General for review of antitrust issues; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 414** was placed on the calendar of Bills on Third Reading.

On motion by Senator Cowin—

**CS for SB 1778**—A bill to be entitled An act relating to acts of violence; providing a short title; amending s. 39.301, F.S.; requiring that staff who conduct child protective investigations receive training on removing a perpetrator of domestic violence from the home by use of injunction; creating s. 741.283, F.S.; requiring that the court order a person to serve a minimum term of imprisonment as part of any sentence imposed for an offense of domestic violence that intentionally caused bodily harm to another person; providing an exception if the person is incarcerated for such offense; amending s. 784.03, F.S.; providing that a person commits felony battery if the offense is a second or subsequent conviction of any type of battery offense; creating s. 938.08, F.S.; requiring that the court impose an additional surcharge for any offense of domestic violence and other assault, battery, and stalking offenses; providing for deposit of a portion of the surcharge into the Domestic Violence Trust Fund; providing for the clerk of the court to retain a service charge; requiring that a portion of the surcharge be used to train law enforcement personnel in combating domestic violence; amending s. 948.03, F.S.; requiring that a person convicted of an offense of domestic violence complete a batterers' intervention program; requiring that the offender pay the cost of attending the program; amending

s. 741.01, F.S.; authorizing the Executive Office of the Governor to use a specified amount from the Domestic Violence Trust Fund to fund a public-awareness campaign on domestic violence; amending s. 741.281, F.S.; requiring the court to impose the batterers' intervention program as a condition of probation; providing for an exception; requiring that the batterers' intervention program be certified; providing an effective date.

—was read the second time by title.

Senator Cowin moved the following amendments which were adopted:

**Amendment 1 (160798)**—On page 3, lines 7 and 8, delete those lines and insert: *violence.—If a person is adjudicated guilty of a crime of domestic violence, as defined in s.*

**Amendment 2 (893750)**—On page 4, delete line 11 and insert: *784.083, s. 784.085, or s. 794.011 or for any offense of domestic violence*

**Amendment 3 (903126)**—On page 4, lines 20-22, delete those lines and insert: *shall be provided to the governing board of the county and must be used only to defray the costs of incarcerating persons sentenced under s. 741.283 and provide additional training to law enforcement*

Pursuant to Rule 4.19, **CS for SB 1778** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 1580** was deferred.

On motion by Senator Crist—

**CS for SB 1652**—A bill to be entitled An act relating to nursing homes and related health care facilities; amending s. 400.235, F.S.; revising membership and terms of the Governor's Panel on Excellence in Long-Term Care; providing for selection of a panel chair; providing a definition; amending s. 400.4195, F.S.; providing conditions under which the prohibition against payment of referral fees by assisted living facilities does not apply; providing an effective date.

—was read the second time by title.

Senator Crist moved the following amendment which was adopted:

**Amendment 1 (292974)**—On page 1, lines 25 and 27, delete "2001" and insert: *2002*

Senator Crist moved the following amendment:

**Amendment 2 (381076)(with title amendment)**—On page 4, line 9 through page 5, line 4, delete those lines and insert:

400.4195 Rebates prohibited; penalties.—

*(1) Except as provided in paragraph (a), paragraph (b), or paragraph (c), it is unlawful for any assisted living facility licensed under this part to contract or promise to pay or receive any commission, bonus, kick-back, or rebate or engage in any split-fee arrangement in any form whatsoever with any physician, surgeon, organization, agency, or person, either directly or indirectly, for residents referred to an assisted living facility licensed under this part. A facility may employ or contract with persons to market the facility, provided the employee or contract provider clearly indicates that he or she represents the facility.*

*(a) Any assisted living facility licensed under this part may contract with an independent marketing agency as defined in s. 400.4196.*

*(b) A person or agency independent of and not under contract with a facility licensed under this part may provide placement or referral services for a fee to individuals seeking assistance in finding a suitable facility; however, any fee paid for placement or referral services must be paid by the individual looking for a facility, not by the facility.*

*(c) A facility may employ persons to market the facility.*

*(2) A violation of this section shall be considered patient brokering and is punishable as provided in s. 817.505.*

Section 3. Section 400.4196, Florida Statutes, is created to read:

*400.4196 Independent marketing agency.—*

*(1) As used in s. 400.4195 and this section, the term “independent marketing agency” means a person or corporation that:*

*(a) Is officially registered with the Department of State, Division of Corporations, to do business in this state;*

*(b) Enters into contracts with assisted living facilities under a nonexclusive contract to market the facility to prospective residents; and*

*(c)1. Represents multiple facilities with different owners; and*

*2. Clearly indicates to prospective residents, prior to referral, all facilities that are represented by the agency.*

*(2) A person who is licensed as a physician or other health care professional, or who is employed as a social worker or case manager by a state or federal government program, may not own or work for an independent marketing agency.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: creating s. 400.4196, F.S.; defining the term “independent marketing agency”; prohibiting certain professionals from working for such an agency;

Senator Crist moved the following substitute amendment which was adopted:

**Amendment 3 (113226)**—On page 4, line 9 through page 5, line 4, delete those lines and insert:

*400.4195 Rebates prohibited; penalties.—*

*(1) Except as provided in subsection (2), it is unlawful for any assisted living facility, or any person or agency employed by or contracting with the facility, licensed under this part to contract or promise to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any health care practitioner, health care facility, or other physician, surgeon, organization, agency, or person, either directly or indirectly, for residents referred to an assisted living facility licensed under this part.*

*(2) A facility may employ or contract with persons or agencies to market the facility for a fee or commission based on the volume or value of referrals to the facility, provided that:*

*(a) The facility is not subject to the provisions of 42 U.S.C. s. 1320a-7b;*

*(b) Payment to the contract provider is made under a nonexclusive contract;*

*(c) The contract provider represents multiple facilities with different owners;*

*(d) The employee or contract provider clearly indicates to all clients prior to referral that he or she represents the facility, in addition to all other facilities represented by the person or agency; and*

*(e) The employee or contract provider also is not a health care practitioner in a position to make referrals to an assisted living facility or employed by a health care facility or any other organization or agency in a position to make referrals to an assisted living facility or does not have an ownership interest in an assisted living facility.*

*(3) A person or agency independent of and not under contract with a the facility may provide placement or referral services for a fee to individuals seeking assistance in finding a suitable facility; however, any fee paid for placement or referral services must be paid by the individual looking for a facility, not by the facility.*

*(4)(2) A violation of this section shall be considered patient brokering and is punishable as provided in s. 817.505.*

Pursuant to Rule 4.19, **CS for SB 1652** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **SB 342** was deferred.

On motion by Senator Jones—

**CS for SJR 526**—A joint resolution proposing an amendment to Section 1 of Article VIII of the State Constitution, relating to local government, to provide for the nonpartisan election of supervisors of elections.

—was read the second time by title.

The Committee on Comprehensive Planning, Local and Military Affairs recommended the following amendment which was moved by Senator Jones and adopted:

**Amendment 1 (843590)**—On page 4, line 2, delete “6” and insert: 1

Pursuant to Rule 4.19, **CS for SJR 526** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **SB 274** was deferred.

On motion by Senator Latvala—

**CS for SB 1468**—A bill to be entitled An act relating to the Florida Forever program; amending s. 259.105, F.S.; revising goals and performance measures for Florida Forever projects of the Department of Environmental Protection and water management districts; amending s. 253.034, F.S.; providing a definition for the term “conservation lands”; providing for the disposition of conservation lands in certain circumstances; revising appraisal requirements; providing for the deposit of funds received from the sale of surplus nonconservation lands into the Internal Improvement Trust Fund; providing that the management of certain lands is not subject to review by the Acquisition and Restoration Council; amending s. 253.82, F.S.; revising conditions under which lands to which title is vested in the Board of Trustees of the Internal Improvement Fund may be declared surplus lands; revising appraisal requirements; providing rulemaking authority; amending s. 253.111, F.S.; providing that certain state lands are exempt from notice requirements prior to sale; amending s. 253.115, F.S.; revising exemptions to notice and publication requirements for certain leases, subleases, or easements; providing an effective date.

—was read the second time by title.

Senator Latvala moved the following amendment which was adopted:

**Amendment 1 (684284)(with title amendment)**—On page 8, line 18 through page 16, line 14, delete those lines and insert:

Section 2. Paragraph (c) is added to subsection (2) of section 253.034, Florida Statutes, and subsection (6) of said section is amended, to read:

253.034 State-owned lands; uses.—

(2) As used in this section, the following phrases have the following meanings:

(c) “Conservation lands” means lands that are currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands that were acquired solely to facilitate the acquisition of other conservation lands. Lands acquired for uses other than conservation, outdoor resource-based recreation, or archaeological or historic preservation shall not be designated conservation lands except as otherwise authorized under this section. These lands shall include, but not be limited to, the following: correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, state university or state community college campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities, laboratories, hospitals, clinics, and other sites that possess no significant natural or historical resources. However, lands

*acquired solely to facilitate the acquisition of other conservation lands, and for which the land management plan has not yet been completed or updated, may be evaluated by the Board of Trustees of the Internal Improvement Trust Fund on a case-by-case basis to determine if they will be designated conservation lands.*

(6) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, may be surplus. ~~Notwithstanding s. 253.111,~~ For conservation lands, the board shall make a determination that the lands are no longer needed for conservation purposes and may dispose of them by a two-thirds vote. *In the case of a land exchange involving the disposition of conservation lands, the board must determine by at least a two-thirds vote that the exchange will result in a net positive conservation benefit.* For all other lands, the board shall make a determination that the lands are no longer needed and may dispose of them by majority vote.

(a) For the purposes of this subsection, all lands acquired by the state prior to July 1, 1999, using proceeds from the Preservation 2000 bonds, the Conservation and Recreation Lands Trust Fund, the Water Management Lands Trust Fund, Environmentally Endangered Lands Program, and the Save Our Coast Program and titled to the board, which lands are identified as core parcels or within original project boundaries, shall be deemed to have been acquired for conservation purposes.

(b) For any lands purchased by the state on or after July 1, 1999, a determination shall be made by the board prior to acquisition as to those parcels that shall be designated as having been acquired for conservation purposes. No lands acquired for use by the Department of Corrections, the Department of Management Services for use as state offices, the Department of Transportation, except those specifically managed for conservation or recreation purposes, or the State University System or the Florida Community College System shall be designated as having been purchased for conservation purposes.

(c) At least every 53 years, as a component of each land management plan or land use plan and in a form and manner prescribed by rule by the board, each management entity shall evaluate and indicate to the board those lands that the entity manages which are not being used for the purpose for which they were originally leased. Such lands shall be reviewed by the council for its recommendation as to whether such lands should be disposed of by the board.

(d) Lands owned by the board which are not actively managed by any state agency or for which a land management plan has not been completed pursuant to subsection (5) shall be reviewed by the council or its successor for its recommendation as to whether such lands should be disposed of by the board.

(e) Prior to any decision by the board to surplus lands, the Acquisition and Restoration Council shall review and make recommendations to the board concerning the request for surplus. The council shall determine whether the request for surplus is compatible with the resource values of and management objectives for such lands.

(f) In reviewing lands owned by the board, the council ~~or its successor~~ shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. The council ~~or its successor~~ shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115. Such lands shall be offered to the state, county, or local government for a period of 3090 days. Permissible uses for such surplus lands may include public schools; public libraries; fire or law enforcement substations; and governmental, judicial, or recreational centers. County or local government requests for surplus lands shall be expedited throughout the surplus process. *If the county or local government does not elect to purchase such lands in accordance with s. 253.111, then any surplus determination involving other governmental agencies shall be made upon the board deciding the best public use of the lands. State agencies shall have the subsequent opportunity to acquire the surplus lands for a period not to exceed 30 days after the offer to a county or local government expires.* Surplus properties in which governmental agencies have expressed no interest shall then be available for sale on the private market.

(g) Lands determined to be surplus pursuant to this subsection shall be sold for ~~appraised fair market~~ value or the price paid by the state or

a water management district to originally acquire the lands, whichever is greater, except *when the board or its designee determines a different sale price is in the public interest. However, for those that the price of lands sold as surplus to any unit of government, the price shall not exceed the price paid by the state or a water management district to originally acquire the lands.* A unit of government which acquires title to lands hereunder for less than ~~appraised fair market~~ value may not sell or transfer title to all or any portion of the lands to any private owner for a period of 10 years. Any unit of government seeking to transfer or sell lands pursuant to this paragraph shall first allow the board of trustees to reacquire such lands. ~~The board of trustees may reacquire such lands for the price at which they sold such lands.~~

(h) Where a unit of government acquired land by gift, donation, grant, quit-claim deed, or other such conveyance where no monetary consideration was exchanged, the price of land sold as surplus *may be based on one appraisal. In the event that a single appraisal yields a value equal to or greater than \$1 million, a second appraisal is required.* ~~shall not exceed the fair market value of the lands. Fair market value shall be determined by the average of two separate appraisals.~~ The individual or entity requesting the surplus shall select and use appraisers from the list of approved appraisers maintained by the Division of State Lands in accordance with s. 253.025(6)(b). The individual or entity requesting the surplus is to incur all costs of the appraisals.

(i) After reviewing the recommendations of the council ~~or its successor~~, the board shall determine whether lands identified for surplus are to be held for other public purposes or whether such lands are no longer needed. The board may require an agency to release its interest in such lands. *For an agency that has requested the use of a property that was to be declared as surplus, said agency must have the property under lease within six months of the date of expiration of the notice provisions required under ss. 253.034(6) and 253.111.*

(j) Requests for surplus may be made by any public or private entity or person. All requests shall be submitted to the lead managing agency for review and recommendation to the council or its successor. Lead managing agencies shall have 90 days to review such requests and make recommendations. Any surplus requests that have not been acted upon within the 90-day time period shall be immediately scheduled for hearing at the next regularly scheduled meeting of the council or its successor. Requests for surplus pursuant to this paragraph shall not be required to be offered to local or state governments as provided in paragraph (f).

(k) Proceeds from any sale of surplus lands pursuant to this subsection shall be deposited into the fund from which such lands were acquired. However, if the fund from which the lands were originally acquired no longer exists, such proceeds shall be deposited into an appropriate account to be used for land management by the lead managing agency assigned the lands prior to the lands being declared surplus. *Funds received from the sale of surplus nonconservation lands, or lands that were acquired by gift, by donation, or for no consideration, shall be deposited into the Internal Improvement Trust Fund.*

(l) Notwithstanding the provisions of this subsection, no such disposition of land shall be made if such disposition would have the effect of causing all or any portion of the interest on any revenue bonds issued to lose the exclusion from gross income for federal income tax purposes.

(m) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the council or its successor.

Section 3. Subsection (3) of section 253.111, Florida Statutes, is amended, and paragraph (c) is added to subsection (6) of said section, to read:

253.111 Notice to board of county commissioners before sale.—The Board of Trustees of the Internal Improvement Trust Fund of the state may not sell any land to which they hold title unless and until they afford an opportunity to the county in which such land is situated to receive such land on the following terms and conditions:

(3) If the board receives, within 3045 days after notice is given to the board of county commissioners pursuant to subsection (1), the certified copy of the resolution provided for in subsection (2), the board shall forthwith convey to the county such land at a price that is equal to its appraised market value established by generally accepted professional



standards for real estate appraisal and subject to such other terms and conditions as the board determines.

(6) This section does not apply to:

- (a) Any land exchange approved by the board; ~~or~~
- (b) The conveyance of any lands located within the Everglades Agricultural Area; ~~or~~
- (c) *Lands managed pursuant to ss. 253.781-253.785.*

Section 4. Paragraphs (h) and (i) of subsection (5) of section 253.115, Florida Statutes, are amended, and paragraph (j) is added to said subsection, to read:

253.115 Public notice and hearings.—

- (5) The notice and publication requirements of this section do not apply to:
- (h) The conveyance of lands pursuant to the provisions of s. 373.4592(4)(b); ~~or~~
- (i) Renewals, modifications, or assignments; ~~or~~
- (j) *Lands managed pursuant to ss. 253.781-253.785.*

Section 5. Subsection (2) of section 253.82, Florida Statutes, is amended to read:

253.82 Title of state or private owners to Murphy Act lands.—

(2)(a) The title to any land which was acquired by the state under chapter 18296, Laws of Florida, 1937, except those parcels which have been sold, conveyed, dedicated, or released by the state pursuant to subsection (1), is hereby vested in the Board of Trustees of the Internal Improvement Trust Fund.

(b) Land to which title is vested in the board of trustees by paragraph (a) shall be treated in the same manner as other nonsovereignty lands owned by the board. However, any parcel of land the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund pursuant to this section which is 10 5 acres or less in size and has an appraised market value of \$250,000 ~~\$100,000~~ or less is hereby declared surplus, *except for lands determined to be needed for state use*, and may be sold in any manner provided by law. *Only one appraisal shall be required for a sale of such land. All proceeds from the sale of such land shall be deposited into the Internal Improvement Trust Fund. The Board of Trustees of the Internal Improvement Trust Fund is authorized to adopt rules to implement the provisions of this subsection.* ~~Conservation and Recreation Lands Trust Fund.~~

(c) The holder of a claim or lien against land vested in the board of trustees by paragraph (a), including a municipality or special taxing district, has until October 1, 1985, to institute suit in a court of competent jurisdiction to establish or enforce the claim or lien. The failure to institute suit by October 1, 1985, is conclusive evidence of abandonment of the claim or lien, and such claim or lien will become unenforceable. This paragraph shall not operate to revive any claim or lien previously extinguished by operation of law.

Section 6. Section 253.86, Florida Statutes, is created to read:

253.86 *Management and use of state-owned or other uplands; rule-making authority.—*

(1) *The Office of Coastal and Aquatic Managed Areas of the Department of Environmental Protection shall have the authority to promulgate rules to govern the management and use of state-owned or other uplands assigned to it for management. Such rules may include, but shall not be limited to, establishing prohibited activities or restrictions on activities, consistent with the purposes for which the lands were acquired, designated, or dedicated, and charging fees for use of lands. All fees collected shall be used for the management of uplands managed by the office.*

(2) *Any person violating or otherwise failing to comply with the rules adopted under this section commits a noncriminal violation as defined in s. 775.08(3), punishable by fine, not to exceed \$500 per violation.*

Section 7. Subsections (1), (7), (8) and (9) of section 259.0345, Florida Statutes, are amended to read:

259.0345 Florida Forever Advisory Council.—

(1)(a) There is hereby created the Florida Forever Advisory Council, consisting of seven residents of this state who shall be appointed by the Governor. The appointments shall include one member from within the geographic boundaries of each water management district who has resided in the district for at least 1 year. The remaining appointments shall come from the state at large. The membership of the council shall be representative of agriculture, the development community, local government, the environmental community, and the scientific and technical community who have substantial experience in areas of land, water, and wildlife management and other related areas.

(b) The members appointed by the Governor shall serve 3-year terms, except that, initially, to provide for staggered terms, three of the appointees shall serve 2-year terms. No appointee shall serve more than 6 years. The Governor may at any time fill a vacancy for the unexpired term of a member appointed under paragraph (a).

~~(c) Additionally, the President of the Senate and the Speaker of the House of Representatives shall each appoint one ad hoc nonvoting member from their respective chambers. Such members shall be appointed from a standing committee that has a jurisdictional responsibility for the Department of Environmental Protection. These appointees shall serve for the duration of the term of the appointing President or Speaker.~~

~~(c)(d)~~ No person who is or has been a lobbyist as defined in s. 112.3148, at any time during the 24 months preceding appointment to the council, for any entity whose interests could be affected by actions or decisions of the council, shall be appointed to the council.

~~(d)(e)~~ The council shall, at a minimum, meet twice a year.

~~(7) The council shall provide a report, by December 15, 2000, to the Secretary of Environmental Protection, who shall forward the report to the board of trustees for their approval. After approval by the board of trustees, the secretary shall forward the approved report to the President of the Senate and the Speaker of the House of Representatives, prior to the beginning of the 2001 Regular Legislative Session, for review by the appropriate substantive legislative committee from which the Florida Forever Act originated, or its successor. The Legislature may reject, modify, or take no action relative to the goals and performance measures established by the report. If no action is taken, the goals and performance measures shall be implemented. The report shall meet the following requirements solely with respect to the funding provided pursuant to s. 259.105(3)(b):~~

~~(a) Establish specific goals for those identified in s. 259.105(4).~~

~~(b) Provide recommendations expanding or refining the goals identified in s. 259.105(4).~~

~~(c) Identify specific performance measures that may be used to analyze progress towards the goals established.~~

~~It is recognized that during the development of this report, the council may identify other recommendations concerning the implementation of Florida Forever. These recommendations shall be incorporated in the reports identified in subsection (8).~~

~~(7)(8)~~ The council shall provide a report, at least 30 days prior to the regular legislative sessions in the following years: 2002, 2004, 2006 and 2008. The report shall be provided to the Secretary of Environmental Protection, who shall forward the report to the board of trustees for their approval. After approval by the board of trustees, the secretary shall forward the approved report to the President of the Senate and the Speaker of the House of Representatives. The report shall provide: recommendations for adjusting or expanding the goals detailed in s. 259.105(4); recommendations for adjusting the percentage distributions detailed in s. 259.105(3); and recommendations concerning other aspects of the Florida Forever Act. In making recommendations for adjusting the percentage distributions detailed in s. 259.105(3), the council shall consider which agencies have encumbered their funds in a timely manner and unencumbered balances, if any, in each agency's Florida Forever subaccount. The recommendations may include increases in percentage distributions to those agencies that have encumbered Florida Forever funds in a timely manner.

(8)(9) The reports required pursuant to subsections (7) and (8) are to be based upon and developed through:

(a) Comments received during public hearings, in different areas of the state, held for the purpose of gathering public input and recommendations.

(b) Evaluations of Florida's existing public land acquisition programs for conservation, preservation, and recreational purposes, including those administered by the water management districts and the Department of Community Affairs, to determine the extent of Florida's unmet needs for restoration, acquisition, and management of public lands and water areas and for acquisition of privately owned lands and water areas.

(c) Material and data developed by the Florida Natural Areas Inventory concerning Florida's conservation lands.

Section 8. Subsection (4) of section 259.035, Florida Statutes, is amended to read:

259.035 Acquisition and Restoration Council.—

(4) The council may use existing rules adopted by the board of trustees, until it develops and recommends amendments to those rules, to competitively evaluate, select, and rank projects eligible for the Conservation and Recreation Lands list pursuant to ss. 259.032(3) and 259.101(4) and, beginning no later than May 1, 2001, for Florida Forever funds pursuant to s. 259.105(3)(b). In developing or amending the rules, the council shall give weight to the criteria included in s. 259.105(10)(9). The board of trustees shall review the recommendations and shall adopt rules necessary to administer this section.

Section 9. Subsection (12) is added to section 298.22, Florida Statutes, to read:

298.22 Powers of supervisors.—The board of supervisors of the district has full power and authority to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan. Subject to the applicable provisions of chapter 373 or chapter 403, the board of supervisors:

(12) *May construct, manage, or authorize construction and management of resource-based recreational facilities that may include greenways, trails, and associated facilities.*

Section 10. Section 369.255, Florida Statutes, is amended to read:

369.255 Green utility ordinances for funding greenspace management and exotic plant control.—

(1) **LEGISLATIVE FINDING.**—The Legislature finds that the proper management of greenspace areas, including, without limitation, the urban forest, greenways, private and public forest preserves, wetlands, and aquatic zones, is essential to the state's environment and economy and to the health and safety of its residents and visitors. The Legislature also finds that the limitation and control of nonindigenous plants and tree replacement and maintenance are vital to achieving the natural systems and recreational lands goals and policies of the state pursuant to s. 187.201(10), the State Comprehensive Plan. It is the intent of this section to enable local governments to establish a mechanism to provide dedicated funding for the aforementioned activities, when deemed necessary by a ~~that~~ county or municipality.

(2) In addition to any other funding mechanisms legally available to counties and municipalities to control invasive, nonindigenous aquatic or upland plants and manage urban forest resources, a county or municipality may create one or more green utilities or adopt fees sufficient to plan, restore, and manage urban forest resources, greenways, forest preserves, wetlands, and other aquatic zones and create a stewardship grant program for private natural areas. Counties or municipalities may create, alone or in cooperation with other counties or municipalities pursuant to the Florida Interlocal Cooperation Act, s. 163.01, one or more greenspace management districts to fund the planning, management, operation, and administration of a greenspace management program. The fees shall be collected on a voluntary basis as set forth by the county or municipality and calculated to generate sufficient funds to plan, manage, operate, and administer a greenspace management program. Private natural areas assessed according to s. 193.501 would qualify for stewardship grants.

(3) This section shall only apply to counties with a population of 500,000 or more and municipalities with a population of 200,000 or more.

(4) Nothing in this section shall authorize counties or municipalities to require any nongovernmental entity to collect the fee described in subsection (2) on their behalf.

Section 11. *Notwithstanding the provision of section 259.101(3)(c), Florida Statutes (1993) (Section 5, Chapter 92-288, Laws of Florida) regarding the set-aside of funds for land acquisition in areas of critical state concern, \$2.9 million from funds previously approved is available for grants to local governments in the Florida Keys and the Key West areas of critical state concern to assist in implementing the local comprehensive plan. Grant funds are to be used for land acquisition for conservation, open space, and outdoor recreation lands, and are contingent upon the review of a local government's proposed project, and a determination by the Florida Communities Trust that the proposed project is an eligible use of funds under the Florida Communities Trust Program. A local government with a population of less than 10,000 is not required to provide a local match. A local government with a population of 10,000 or more is required to provide a dollar for dollar match.*

Section 12. Subsection (8) of section 259.101, Florida Statutes, is repealed.

Section 13. This act shall take effect July 1, 2001.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to land acquisition and management; amending s. 259.105, F.S.; revising goals and performance measures for Florida Forever projects of the Department of Environmental Protection and water management districts; amending s. 253.034, F.S.; defining "conservation lands"; providing procedure for disposition of certain surplus conservation lands by the Board of Trustees of the Internal Improvement Trust Fund; revising procedure for evaluating and offering for sale of surplus lands; providing for disposition of proceeds from the sale of surplus nonconservation lands; amending ss. 253.111 and 253.115, F.S.; exempting Greenway lands from certain public notice and hearing requirements prior to sale, lease, exchange, or grant of easement; amending s. 253.82, F.S.; revising conditions under which certain lands titled to the board of trustees may be declared surplus lands; revising appraisal requirements; providing rulemaking authority; creating s. 253.86, F.S.; providing for management and use of certain uplands; providing rulemaking authority of the Office of Coastal and Aquatic Managed Areas; providing for fees; providing a penalty; amending s. 259.035, F.S., correcting a cross reference; amending s. 259.0345, F.S.; repealing authority for certain members of the Legislature to be appointed as ad hoc nonvoting members to the Florida Forever Advisory Council; deleting obsolete provisions; amending s. 298.22, F.S.; authorizing boards of supervisors of water control districts to construct and manage resource-based recreational facilities; amending s. 369.255, F.S.; authorizing certain municipalities to create a funding mechanism for greenspace management and exotic plant control; repealing subsection (8) of s. 259.101, F.S.; relating to the disposal and use of certain state owned lands; providing an effective date.

Senators Saunders, Latvala, Sullivan, Silver, Constantine and Laurent offered the following amendment which was moved by Senator Saunders and adopted:

**Amendment 2 (103450)(with title amendment)**—On page 16, between lines 12 and 13, insert:

Section 6. *The Legislature recognizes that the Preservation 2000 program has provided incalculable benefits to the citizens of Florida by funding the acquisition and protection of more than one million acres of land for conservation and recreation purposes. The Preservation 2000 Program has helped insure present and future generations access to important open spaces and recreation and conservation lands. It is therefore the intent of the Legislature that any funds from the Preservation 2000 Trust Fund redirected to Everglades restoration efforts by the 2001 Legislature due to current budgeting constraints be restored by the General Appropriations Act for Fiscal Year 2002-2003 to the Preservation 2000 Trust Fund.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 27, after the semicolon (;) insert: providing intent of the Legislature to repay any Preservation 2000 funds redirected for other purposes;

Pursuant to Rule 4.19, **CS for SB 1468** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Constantine—

**SB 384**—A bill to be entitled An act relating to public records exemptions; amending s. 365.171, F.S.; reenacting the public records exemption for information relating to “911” telephone calls; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 384** to **HB 399**.

Pending further consideration of **SB 384** as amended, on motion by Senator Constantine, by two-thirds vote **HB 399** was withdrawn from the Committees on Comprehensive Planning, Local and Military Affairs; Governmental Oversight and Productivity; and Rules and Calendar.

On motion by Senator Constantine—

**HB 399**—A bill to be entitled An act relating to a public records exemption for certain information relating to emergency telephone number “911”; amending s. 365.171, F.S., which provides an exemption from public records requirements for information that reveals the name, address, telephone number, or personal information about, or other information that would identify, a person requesting emergency service or reporting an emergency; reenacting such exemption and removing the October 2, 2001, repeal thereof scheduled under the Open Government Sunset Review Act of 1995; correcting a reference; providing an effective date.

—a companion measure, was substituted for **SB 384** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 399** was placed on the calendar of Bills on Third Reading.

On motion by Senator Garcia—

**SB 2240**—A bill to be entitled An act relating to warranty associations; amending s. 634.011, F.S.; defining the term “additive product”; redefining the terms “motor vehicle service agreement” and “salesperson”; amending s. 634.044, F.S.; including part inventories among the allowable assets of a service agreement company; amending s. 634.137, F.S.; providing for submission of financial reports to the Department of Insurance in a computer-readable form; amending s. 634.171, F.S.; providing that a motor vehicle service agreement company is not required to be licensed as a salesperson to solicit, sell, issue, or otherwise transact the motor vehicle service agreements issued by the company; repealing s. 634.281, F.S., which provides that service agreement companies and their salespersons are subject to pt. X of ch. 626, F.S., relating to viatical settlements; creating s. 634.2815, F.S.; prohibiting engaging in any trade practice determined to be an unfair method of competition or an unfair or deceptive act or practice involving the business of motor vehicle service agreements; creating s. 634.282, F.S.; defining unfair methods of competition and unfair or deceptive acts or practices; creating s. 634.2825, F.S.; requiring vendors and lenders to separately state and identify the amount charged and to be paid for a motor vehicle service agreement; providing applicability; creating s. 634.283, F.S.; providing power of the Department of Insurance to examine and investigate the affairs of persons involved in the business of motor vehicle service agreements in the state; creating s. 634.284, F.S.; authorizing the department to conduct hearings with respect to specified prohibited practices; providing a fine for failure to comply with a subpoena or an order directing discovery; creating s. 634.285, F.S.; providing for the issuance of cease and desist orders by the department; providing specified penalties; creating s. 634.286, F.S.; providing for appeals of orders of the department; creating s. 634.287, F.S.; providing penalties for violation of a cease and

desist order of the department; creating s. 634.288, F.S.; providing for civil liability; amending s. 634.301, F.S.; redefining the term “home warranty”; amending s. 634.3077, F.S.; eliminating specified assets to be deducted in computing the net asset requirement of a home warranty association; creating s. 634.3078, F.S.; specifying allowable assets and liabilities with respect to the determination of the financial condition of a service warranty association; amending s. 634.313, F.S.; providing for submission of annual statements and financial reports to the Department of Insurance in a computer-readable form; amending s. 634.318, F.S.; providing that a home warranty association is not required to be licensed as a salesperson to solicit, sell, issue, or otherwise transact the home warranty agreements issued by the association; amending s. 634.331, F.S.; revising terminology with respect to coverage of property for sale; amending s. 634.336, F.S.; including advertising, offering, or providing a free home warranty as an inducement to specified purchases or sales among acts or practices which constitute unfair methods of competition and unfair or deceptive acts or practices; amending s. 634.415, F.S.; providing for submission of statements and reports to the Department of Insurance in a computer-readable form; amending s. 634.419, F.S.; providing that a service warranty association is not required to be licensed as a sales representative to solicit, sell, or issue service warranty agreements issued by the association; amending s. 634.436, F.S.; including advertising, offering, or providing a free service warranty as an inducement to specified purchases or sales among acts or practices which constitute unfair methods of competition and unfair or deceptive acts or practices; amending ss. 624.124, 628.4615, F.S.; conforming cross-references; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Garcia and adopted:

**Amendment 1 (122232)(with title amendment)**—On page 9, line 13 through page 33, line 8, delete those lines and insert:

(e) *Uses any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that the state or federal government is responsible for the motor vehicle service agreement sales activity of any person or stands behind any person's credit or that any person, the state, or the federal government guarantees any returns on motor vehicle service agreements or is a source of payment of any motor vehicle service agreement obligation of or sold by any person.*

(2) **FALSE INFORMATION AND ADVERTISING GENERALLY.**—*Knowingly making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public:*

- (a) *In a newspaper, magazine, or other publication;*
- (b) *In the form of a notice, circular, pamphlet, letter, or poster;*
- (c) *Over any radio or television station; or*
- (d) *Over the Internet, electronically, or in any other way,*

*an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of motor vehicle service agreements, which assertion, representation, or statement is untrue, deceptive, or misleading.*

(3) **DEFAMATION.**—*Knowingly making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of, any oral or written statement, or any pamphlet, circular, article, or literature, that is false or maliciously critical of, or derogatory to, any person and that is calculated to injure such person.*

(4) **BOYCOTT, COERCION, AND INTIMIDATION.**—*Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in, or tending to result in, unreasonable restraint of, or monopoly in, the business of motor vehicle service agreements.*

(5) **FALSE STATEMENTS AND ENTRIES.**—

- (a) *Knowingly:*

1. Filing with any supervisory or other public official;
2. Making, publishing, disseminating, or circulating;
3. Delivering to any person;
4. Placing before the public; or
5. Causing, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement.

(b) Knowingly making any false entry of a material fact in any book, report, or statement of any person, or knowingly failing to make a true entry of any material fact pertaining to the business of such person in any book, report, or statement of such person.

(6) **UNFAIR DISCRIMINATION.**—Knowingly making or permitting any unfair discrimination between individuals of the same actuarially supportable class and essentially the same hazard, in the amount of premium, policy fees, or rates charged for any motor vehicle service agreement, in any of the terms or conditions of such agreement, or in any other manner whatsoever.

(7) **UNLAWFUL REBATES.**—Except as otherwise expressly provided by law, or in an applicable filing with the department, knowingly:

(a) Permitting, or offering to make, or making, any contract or agreement as to such contract other than as plainly expressed in the motor vehicle service agreement issued thereon;

(b) Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such motor vehicle service agreement, any unlawful rebate of premiums payable on the agreement, any special favor or advantage in the benefits thereon, or any valuable consideration or inducement not specified in the agreement;

(c) Giving, selling, or purchasing, or offering to give, sell, or purchase, as an inducement to such motor vehicle service agreement or in connection therewith, any stocks, bonds, or other securities of any insurance company, service agreement company, or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value not specified in the motor vehicle service agreement.

(8) **UNFAIR CLAIM SETTLEMENT PRACTICES.**—

(a) Attempting to settle claims on the basis of an application or any other material document that was altered without notice to, or knowledge or consent of, the service agreement holder;

(b) Making a material misrepresentation to the service agreement holder for the purpose and with the intent of effecting settlement of such claims, loss, or damage under such contract on less favorable terms than those provided in, and contemplated by, such contract; or

(c) Committing or performing with such frequency as to indicate a general business practice any of the following practices:

1. Failure to adopt and implement internal standards for the investigation of claims;
2. Misrepresentation of pertinent facts or contract provisions relating to coverages at issue;
3. Failure to acknowledge and act promptly upon communications with respect to claims;
4. Denial of claims without conducting reasonable investigations based upon available information;
5. Failure to affirm or deny full or partial coverage of claims and, as to partial coverage, the dollar amount or extent of coverage, or failure to provide a written statement that the claim is being investigated, upon written request of the service agreement holder within 30 days after proof-of-loss statements have been completed;
6. Failure to promptly provide a reasonable explanation to the service agreement holder of the basis in the contract in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;

7. Failure to promptly notify the service agreement holder of any additional information necessary for the processing of a claim; or

8. Failure to clearly explain the nature of the requested information and the reasons such information is necessary.

(9) **FAILURE TO MAINTAIN PROCEDURES FOR HANDLING COMPLAINTS.**—Failing to maintain a complete record of all complaints received since the date of the last examination. For purposes of this paragraph, "complaint" means any written communication primarily expressing a grievance.

(10) **DISCRIMINATORY REFUSAL TO ISSUE A CONTRACT.**—Refusing to issue a contract solely because of an individual's race, color, creed, marital status, sex, or national origin.

(11) **MISREPRESENTATION IN SERVICE AGREEMENT APPLICATIONS.**—Knowingly making a false or fraudulent written or oral statement or representation on, or relative to, an application or negotiation for a motor vehicle service agreement for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, service agreement company, agent, broker, salesperson, or individual.

(12) **FREE SERVICE AGREEMENTS.**—

(a) Advertising, offering, or providing a free motor vehicle service agreement as an inducement to the purchase or sale of real or personal property or of services directly or indirectly connected with such real or personal property.

(b) For the purposes of this subsection, a "free" motor vehicle service agreement is:

1. A motor vehicle service agreement for which no identifiable and additional charge is made to the purchaser of such real property, personal property, or services.

2. A motor vehicle service agreement for which an identifiable or additional charge is made in an amount less than the cost of such motor vehicle service agreement as to the seller or other person, other than the service agreement company, providing the same.

3. Using the word "free" or words that imply the provision of a motor vehicle service agreement without a cost in connection with the advertising or offering for sale of any kind of goods, merchandise, or services.

(13) **ILLEGAL DEALINGS IN PREMIUMS; EXCESS OR REDUCED CHARGES FOR MOTOR VEHICLE SERVICE AGREEMENTS.**—

(a) Knowingly collecting any sum as a premium or charge for a motor vehicle service agreement, which is not then provided, or is not in due course to be provided, subject to acceptance of the risk by a service agreement company or an insurer, by a motor vehicle service agreement issued by a service agreement company or an insurer as permitted by this part.

(b) Knowingly collecting as a premium or charge for a motor vehicle service agreement any sum in excess of or less than the premium or charge applicable to such motor vehicle service agreement, in accordance with the applicable classifications and rates as filed with the department, and as specified in the motor vehicle service agreement.

(14) **INTERLOCKING OWNERSHIP AND MANAGEMENT.**—

(a) Any motor vehicle service agreement company may retain, invest in, or acquire the whole or any part of the capital of any other motor vehicle service agreement company, or have a common management with any other motor vehicle service agreement company, unless such retention, investment, acquisition, or common management is inconsistent with any other provision of this part, or unless by reason thereof the business of such insurers with the public is conducted in a manner that substantially lessens competition generally in the insurance business.

(b) Any person otherwise qualified may be a director of two or more motor vehicle service agreement companies that are competitors, unless the effect thereof is substantially to lessen competition between motor vehicle service agreement companies generally or materially tend to create a monopoly.

**(15) FALSE CLAIMS; OBTAINING OR RETAINING MONEY DISHONESTLY.—**

(a) Any salesperson who causes to be presented to any motor vehicle service agreement company a false claim for payment, knowing the same to be false; or

(b) Any salesperson who represents any motor vehicle service agreement company or collects or does business without the authority of the motor vehicle service agreement company, secures cash advances by false statements, or fails to turn over when required, or satisfactorily account for, all collections of such motor vehicle service agreement company,

in addition to the other penalties provided in this act, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**(16) SLIDING.—Sliding is the act or practice of:**

(a) Representing to the applicant that a specific ancillary coverage or product is required by law in conjunction with the purchase of a motor vehicle service agreement when such coverage or product is not required;

(b) Representing to the applicant that a specific ancillary coverage or product is included in the motor vehicle service agreement contract applied for without an additional charge when such charge is required; or

(c) Charging an applicant for a specific ancillary coverage or product, in addition to the cost of the motor vehicle service agreement coverage applied for, without the informed consent of the applicant.

No provision of this section shall be deemed to prohibit a service agreement company or a licensed insurer from giving to service agreement holders, prospective service agreement holders, and others for the purpose of advertising, any article of merchandise having a value of not more than \$25.

**Section 8. Section 634.2825, Florida Statutes, is created to read:**

**634.2825 Motor vehicle service agreement cost specified in "price package".—**

(1) When the premium or charge for a motor vehicle service agreement or involving such property or merchandise is included in the overall purchase price or financing of the purchase of merchandise or property, the vendor or lender shall separately state and identify the amount charged and to be paid for the motor vehicle service agreement, and the classifications, if any, upon which based; and the inclusion or exclusion of the cost of a motor vehicle service agreement in such purchase price or financing shall not increase, reduce, or otherwise affect any other factor involved in the cost of merchandise, property, or financing as to the purchaser or borrower.

(2) This section does not apply to transactions that are subject to the provisions of part I of chapter 520, entitled "The Motor Vehicle Retail Sales Finance Act."

**Section 9. Section 634.283, Florida Statutes, is created to read:**

**634.283 Power of department to examine and investigate.—**The department may examine and investigate the affairs of every person involved in the business of motor vehicle service agreements in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by s. 634.2815.

**Section 10. Section 634.284, Florida Statutes, is created to read:**

**634.284 Prohibited practices; hearings, witnesses, appearances, production of books, and service of process.—**

(1) Whenever the department has reason to believe that any person has engaged, or is engaging, in this state in any unfair method of competition or any unfair or deceptive act or practice as defined in s. 634.282, or is engaging in the business of motor vehicle service agreements without being properly licensed as required by this part, and that a proceeding by the department in respect thereto would be in the interest of the public, the department shall conduct or cause to have conducted a hearing in accordance with chapter 120.

(2) The department, a duly empowered hearing officer, or an administrative law judge shall, during the conduct of such hearing, have those powers enumerated in s. 120.569; however, the penalty for failure to comply with a subpoena or with an order directing discovery is limited to a fine not to exceed \$1,000 per violation.

(3) A statement of charges, notice, or order under this part may be served by anyone duly authorized by the department, either in the manner provided by law for service of process in civil actions or by certifying and mailing a copy thereof to the person affected by such statement, notice, order, or other process at her or his residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process, setting forth the manner of the service, is proof of the same; and the return postcard receipt for such statement, notice, order, or other process, certified and mailed as provided in this subsection, is proof of service of the same.

**Section 11. Section 634.285, Florida Statutes, is created to read:**

**634.285 Cease and desist and penalty orders.—**After the hearing provided for in s. 634.284, the department shall enter a final order in accordance with s. 120.569. If it is determined that the person charged has engaged in an unfair or deceptive act or practice or the unlawful transaction of a service agreement business, the department also shall issue an order requiring the violator to cease and desist from engaging in such method of competition, act, or practice or the unlawful transaction of service agreement business. Further, the department may, at its discretion, order any one or more of the following penalties:

(1) The suspension or revocation of such person's license, or eligibility for any license, if the person knew, or reasonably should have known, that she or he was in violation of this part.

(2) If it is determined that the person charged has provided or offered to provide motor vehicle service agreements without proper licensure, the imposition of an administrative penalty not to exceed \$1,000 for each service agreement contract offered or effectuated.

**Section 12. Section 634.286, Florida Statutes, is created to read:**

**634.286 Appeals from orders of the department.—**Any person subject to an order of the department under s. 634.285 may obtain a review of such order by filing an appeal therefrom in accordance with the provisions and procedures for appeal from the orders of the department in general under s. 120.68.

**Section 13. Section 634.287, Florida Statutes, is created to read:**

**634.287 Penalty for violation of cease and desist order.—**Any person who violates a cease and desist order of the department under s. 634.285 while such order is in effect, after notice and hearing as provided in s. 634.284, is subject, at the discretion of the department, to any one or more of the following penalties:

(1) A monetary penalty of not more than \$50,000 as to all matters determined in such hearing.

(2) The suspension or revocation of such person's license or eligibility to hold a license.

**Section 14. Section 634.288, Florida Statutes, is created to read:**

**634.288 Civil liability.—**The provisions of this part are cumulative to rights under the general civil and common law, and no action of the department will abrogate such rights to damages or other relief in any court.

**Section 15. Effective January 1, 2002, section 634.3077, Florida Statutes, is amended to read:****634.3077 Financial requirements.—**

(1) An association licensed under this part shall maintain a funded, unearned premium reserve account, consisting of unencumbered assets, equal to a minimum of 25 percent of the gross written premiums received by it from all warranty contracts in force. Such assets shall be held in the form of cash or invested in securities for investments as provided in part II of chapter 625.

(2) An association shall maintain, at a minimum, net assets equal to one-sixth of the written premiums it receives for the issuance and delivery of any binder or warranty in force. Net assets may be less than one-sixth of the premiums written provided the association has net assets of not less than \$500,000 and maintains a funded, unearned premium reserve account consisting of unencumbered assets equal to a minimum of 40 percent of the gross written premiums received by it from all warranty contracts in force which shall be held in the form of cash or invested in securities for investments as provided in part II of chapter 625.

~~(3) In computing the net asset requirement, goodwill, franchises, customer lists, patents or trademarks, receivables from or advances to officers, directors, employees, salespersons, or affiliated companies, and assets deposited outside the United States shall be deducted from the net assets of the association.~~

(3)(4) An association shall not be required to set up an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the department that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance shall be obtained from an insurer that holds a certificate of authority to do business within the state or from an insurer approved by the department as financially capable of meeting the obligations incurred pursuant to the policy. For purposes of this subsection, the contractual liability policy shall contain the following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

(b) The insurer issuing the policy shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy may not be canceled or not renewed by either the insurer or the association unless 60 days' written notice thereof has been given to the department by the insurer before the date of such cancellation or nonrenewal.

~~(4)(5)~~ An association that purchases contractual liability insurance on the warranties that it issues shall provide the department with claim statistics required to be filed by associations not purchasing such insurance.

Section 16. Effective January 1, 2002, section 634.3078, Florida Statutes, is created to read:

**634.3078 Assets and liabilities.—**

(1) **ASSETS.**—In any determination of the financial condition of a home warranty association, there shall be allowed as assets only those assets that are owned by the home warranty association company and which assets consist of:

(a) Cash in the possession of the home warranty association, or in transit under its control, including the true balance of any deposit in a solvent bank, savings and loan association, or trust company that is domiciled in the United States.

(b) Investments, securities, properties, and loans acquired or held in accordance with this part and, in connection therewith, the following items:

1. Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

2. Declared and unpaid dividends on stock and shares, unless the amount of the dividends has otherwise been allowed as an asset.

3. Interest due or accrued upon a collateral loan that is not in default in an amount not to exceed 1 year's interest thereon.

4. Interest due or accrued on deposits or certificates of deposit in solvent banks, savings and loan associations, and trust companies domiciled in the United States, and interest due or accrued on other assets, if such interest is in the judgment of the department a collectible asset.

5. Interest due or accrued on current mortgage loans, in an amount not exceeding the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but interest accrued for a period in excess of 90 days may not be allowed as an asset.

6. Rent due or accrued on real property if such rent is not in arrears for more than 3 months. However, rent accrued for a period in excess of 90 days may not be allowed as an asset.

7. The unaccrued portion of taxes paid prior to the due date on real property.

(c) Furniture, fixtures, furnishings, vehicles, and equipment, if the original cost of each item is at least \$200, which cost shall be amortized in full over a period not to exceed 5 calendar years, unless otherwise approved by the department.

(d) Part inventories maintained for the purpose of servicing products warranted. Part inventories must be listed at cost. Home warranty associations companies are required to maintain records to support valuation of part inventories.

(e) The liquidation value of prepaid expenses.

(f) Other assets or receivables, not inconsistent with the provisions of this section, deemed by the department to be available for the payment of losses and claims, at values to be determined by the department.

The department, upon determining that a home warranty association's asset has not been evaluated according to applicable law or that it does not qualify as an asset, shall require the home warranty association to properly reevaluate the asset or replace the asset with an asset suitable to the department within 30 days after written notification by the department of this determination, if the removal of the asset from the organization's assets would impair the company's solvency.

(2) **ASSETS NOT ALLOWED.**—In addition to assets impliedly excluded by the provisions of subsection (1), the following assets expressly shall not be allowed as assets in any determination of the financial condition of a home warranty association:

(a) Goodwill, agreement holder lists, patents, trade names, agreements not to compete, and other like intangible assets.

(b) Any note or account receivable from or advances to officers, directors, or controlling stockholders, whether secured or not, and advances to employees, agents, or other persons on personal security only.

(c) Stock of the home warranty association owned by it directly or owned by it through any entity in which the organization owns or controls, directly or indirectly, more than 25 percent of the ownership interest.

(d) Leasehold improvements, stationery, and literature, except that leasehold improvements made prior to October 1, 2001, shall be allowed as an asset and shall be amortized over the shortest of the following periods:

1. The life of the lease.

2. The useful life of the improvements.

3. The 3-year period following October 1, 2001.

(e) Furniture, fixtures, furnishings, vehicles, and equipment, other than those items authorized under paragraph (1)(c).

(f) Notes or other evidences of indebtedness which are secured by mortgages or deeds of trust which are in default and beyond the express period specified in the instrument for curing the default.

(g) Bonds in default for more than 60 days.

(h) Deferred costs other than the liquidation value of prepaid expenses except for those companies that reserve 100 percent of gross written premium.

(i) Any note, account receivable, advance, or other evidence of indebtedness, or investment in:

1. *The parent of the home warranty association;*
2. *Any entity directly or indirectly controlled by the home warranty association's parent;*
3. *An affiliate of the parent or the home warranty association; or*
4. *Officers, directors, shareholders, employees, or salespersons of the home warranty association; however, premium receivables under 45 days old may be considered an admitted asset.*

*The department may, however, allow all or a portion of such asset, at values to be determined by the department, if deemed by the department to be available for the payment of losses and claims.*

(3) **LIABILITIES.**—*In any determination of the financial condition of a home warranty association, liabilities to be charged against its assets shall include, but not be limited to:*

(a) *The amount, in conformity with generally accepted accounting principles, necessary to pay all of its unpaid losses and claims incurred for or on behalf of an agreement holder, on or prior to the end of the reporting period, whether reported or unreported.*

(b) *Taxes, expenses, and other obligations due or accrued at the date of the statement.*

(c) *Reserve for unearned premiums.*

*The department, upon determining that the home warranty association has failed to report liabilities that should have been reported, shall require a correct report which reflects the proper liabilities to be submitted by the home warranty association to the department within 10 working days after receipt of written notification.*

Section 17. Effective January 1, 2002, subsection (7) is added to section 634.312, Florida Statutes, to read:

634.312 Filing, approval of forms.—

(7) *All home warranty contracts must disclose any exclusions, restrictions, or limitations on the benefits offered or the coverage provided by the home warranty contract in boldfaced type, and must contain, in boldfaced type, a statement on the front page of the contract substantially similar to the following: "Certain items and events are not covered by this contract. Please refer to the exclusions listed on page \_ of this document."*

Section 18. Subsection (5) is added to section 634.313, Florida Statutes, to read:

634.313 Tax on premiums; annual statement; reports.—

(5) *The department may by rule require each home warranty association to submit to the department, as the department may designate, all or part of the information contained in the financial reports required by this section in a computer-readable form compatible with the electronic data processing system specified by the department.*

Section 19. Section 634.318, Florida Statutes, is amended to read:

634.318 License and appointment of sales representatives.—Sales representatives for home warranty associations and insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated in the same manner as prescribed in chapter 626 for insurance representatives in general, except they shall be exempt from the fingerprinting, photo identification card, education, and examination provisions. License, appointment, and other fees shall be those as prescribed in s. 624.501. No employee or sales representative of a home warranty association or insurer may directly or indirectly solicit or negotiate insurance contracts, or hold herself or himself out in any manner to be an insurance agent or solicitor, unless so qualified, licensed, and appointed therefor under the insurance code. *A home warranty association is not required to be licensed as a sales representative to solicit, sell, issue, or otherwise transact the home warranty agreements issued by the home warranty association.*

Section 20. Section 634.331, Florida Statutes, is amended to read:

634.331 Coverage of property for sale.—A home warranty may provide coverage of residential property during the listing period of such

property for a period not to exceed 12 months, provided that the home warranty company charges the warranty purchaser a separately identifiable charge for the ~~listing list~~ period coverage in an amount equal to at least 15 percent of the annual premium charged for the home warranty and the charge for such coverage is due at the earlier of the end of the listing period or the date the sale of the residential property is closed.

Section 21. Subsection (6) is added to section 634.415, Florida Statutes, to read:

634.415 Tax on premiums; annual statement; reports; quarterly statements.—

(6) *The department may by rule require each service warranty association to submit to the department, as the department may designate, all or part of the information contained in the financial statements and reports required by this section in a computer-readable form compatible with the electronic data processing system specified by the department.*

Section 22. Section 634.419, Florida Statutes, is amended to read:

634.419 License and appointment required.—No person or entity shall solicit, negotiate, advertise, or effectuate service warranty contracts in this state unless such person or entity is licensed and appointed as a sales representative. Sales representatives shall be responsible for the actions of persons under their supervision. However, a service warranty association licensed *as such* under this part shall not be required to be licensed and appointed as a sales representative to *solicit, negotiate, advertise, or effectuate* its products.

Section 23. Subsection (8) is added to section 634.436, Florida Statutes, to read:

634.436 Unfair methods of competition and unfair or deceptive acts or practices defined.—The following methods, acts, or practices are defined as unfair methods of competition and unfair or deceptive acts or practices:

(8) **FREE SERVICE WARRANTIES.**—

(a) *Advertising, offering, or providing a free service warranty as an inducement to the purchase or sale of real or personal property or of services directly or indirectly connected with such real or personal property.*

(b) *For the purposes of this subsection, a "free" service warranty is:*

1. *A service warranty for which no identifiable and additional charge is made to the purchaser of such real property, personal property, or services.*

2. *A service warranty for which an identifiable or additional charge is made in an amount less than the cost of such service warranty as to the seller or other person, other than the service warranty association, providing the same.*

3. *A service warranty with respect to which the word "free" or words implying that the provision of the service warranty is without cost are used in connection with the advertising or offering for sale of any kind of goods, merchandise, or services.*

Section 24. Section 624.124, Florida Statutes, is amended to read:

624.124 Motor vehicle services; exemption from code.—Any person may, in exchange for fees, dues, charges, or other consideration, provide any of the following services related to the ownership, operation, use, or maintenance of a motor vehicle without being deemed an insurer and without being subject to the provisions of this code:

(1) Towing service.

(2) Procuring from an insurer group coverage for bail and arrest bonds or for accidental death and dismemberment.

(3) Emergency service.

(4) Procuring prepaid legal services, or providing reimbursement for legal services, except that this shall not be deemed to be an exemption from chapter 642.



(5) Offering assistance in locating or recovering stolen or missing motor vehicles.

(6) Paying emergency living and transportation expenses of the owner of a motor vehicle when the motor vehicle is damaged.

For purposes of this section, "motor vehicle" has the same meaning specified by s. 634.011(7) ~~s. 634.011(6)~~.

Section 25. Subsection (1) of section 628.4615, Florida Statutes, is amended to read:

628.4615 Specialty insurers; acquisition of controlling stock, ownership interest, assets, or control; merger or consolidation.—

(1) For the purposes of this section, the term "specialty insurer" means any person holding a license or certificate of authority as:

(a) A motor vehicle service agreement company authorized to issue motor vehicle service agreements as those terms are defined in s. 634.011(8) and (9) ~~s. 634.011(7) and (8)~~;

(b) A home warranty association authorized to issue "home warranties" as those terms are defined in s. 634.301(4) and (5);

(c) A service warranty association authorized to issue "service warranties" as those terms are defined in s. 634.401(14) and (15);

(d) An optometric service plan corporation authorized to issue optometric service plan contracts as those terms are defined in s. 637.001(2) and (3);

(e) A pharmaceutical service plan corporation authorized to issue pharmaceutical service plan contracts as those terms are defined in s. 637.1701(2) and (3);

(f) A dental service plan corporation licensed to issue contracts for dental services pursuant to a dental service plan as that term is defined in s. 637.401(1);

(g) An ambulance service association authorized to issue ambulance service contracts as those terms are defined in s. 638.021(1) and (2);

(h) An authorized health maintenance organization operating pursuant to s. 641.21;

(i) An authorized prepaid health clinic operating pursuant to s. 641.405;

(j) A legal expense insurance corporation authorized to engage in a legal expense insurance business pursuant to s. 642.021;

(k) A provider which is licensed to operate a facility which undertakes to provide continuing care as those terms are defined in s. 651.011(2), (5), (6), and (7);

(l) A multiple-employer welfare arrangement operating pursuant to ss. 624.436-624.446;

(m) A premium finance company authorized to finance insurance premiums pursuant to s. 627.828; or

(n) A corporation authorized to accept donor annuity agreements pursuant to s. 627.481.

Section 26. Section 634.289, Florida Statutes, is created to read:

634.289 Rules.—*The department may adopt rules, in accordance with chapter 20, to identify specific methods of competition or acts or practices that are prohibited by s. 634.282, but these rules shall not enlarge upon or extend the provisions of that section.*

Section 27. Section 634.302, Florida Statutes, is amended to read:

634.302 Powers of department; rules.—The department shall administer this part, and, to that end, it has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part. *Such rules may include rules that identify specific methods of competition or acts or practices that are prohibited by s. 634.336, but the rules shall not enlarge upon or extend the provisions of that section.*

Section 28. Section 634.402, Florida Statutes, is amended to read:

634.402 Powers of department; rules.—The department shall administer this part, and to that end it has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part. *Such rules may identify specific methods of competition or acts or practices that are prohibited by s. 634.436, but shall not enlarge upon or extend the provisions of that section.*

Section 29. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 17 through page 3, line 28, delete those lines and insert: repealing s. 634.281, F.S., which provides that service agreement companies and their salespersons shall be subject to pt. IX of ch. 626, F.S., relating to service agreement companies and their salespersons; creating s. 634.2815, F.S.; prohibiting engaging in any trade practice determined to be an unfair method of competition or an unfair or deceptive act or practice involving the business of motor vehicle service agreements; creating s. 634.282, F.S.; defining unfair methods of competition and unfair or deceptive acts or practices; creating s. 634.2825, F.S.; requiring vendors and lenders to separately state and identify the amount charged and to be paid for a motor vehicle service agreement; providing applicability; creating s. 634.283, F.S.; providing power of the Department of Insurance to examine and investigate the affairs of persons involved in the business of motor vehicle service agreements in the state; creating s. 634.284, F.S.; authorizing the department to conduct hearings with respect to specified prohibited practices; providing a fine for failure to comply with a subpoena or an order directing discovery; creating s. 634.285, F.S.; providing for the issuance of cease and desist orders by the department; providing specified penalties; creating s. 634.286, F.S.; providing for appeals of orders of the department; creating s. 634.287, F.S.; providing penalties for violation of a cease and desist order of the department; creating s. 634.288, F.S.; providing for civil liability; amending s. 634.3077, F.S.; eliminating specified assets to be deducted in computing the net asset requirement of a home warranty association; creating s. 634.3078, F.S.; specifying allowable assets and liabilities with respect to the determination of the financial condition of a service warranty association; amending s. 634.312, F.S.; amending provisions relating to the filing and approval of forms; amending s. 634.313, F.S.; providing for the submission of annual statements and financial reports to the Department of Insurance in a computer-readable form; amending s. 634.318, F.S.; providing that a home warranty association is not required to be licensed as a salesperson to solicit, sell, issue, or otherwise transact the home warranty agreements issued by the association; amending s. 634.331, F.S.; revising terminology with respect to coverage of property for sale; amending s. 634.415, F.S.; providing for the submission of statements and reports to the Department of Insurance in a computer-readable form; amending s. 634.419, F.S.; providing that a service warranty association is not required to be licensed as a sales representative to solicit, sell, or issue service warranty agreements issued by the association; amending s. 634.436, F.S.; including advertising, offering, or providing a free service warranty as an inducement to specified purchases or sales among acts or practices that constitute unfair methods of competition and unfair or deceptive acts or practices; amending ss. 624.124, 628.4615, F.S.; correcting cross-references; creating s. 634.289, F.S.; providing rulemaking authority; amending s. 634.302, F.S.; providing rulemaking authority; amending s. 634.402, F.S.; providing rulemaking authority; providing for effective dates.

Pursuant to Rule 4.19, **SB 2240** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Geller—

**CS for SB 1922**—A bill to be entitled An act relating to agriculture and consumer services; amending s. 120.80, F.S.; providing that marketing orders under ch. 527, F.S., are not rules; amending s. 125.27, F.S.; authorizing the Department of Agriculture and Consumer Services to lease or lend equipment to governmental entities that have fire/rescue responsibilities; limiting liability for civil damages resulting from use or possession of such equipment; amending s. 201.15, F.S.; authorizing the department to adopt rules regarding the distribution of funds for best management practices; amending s. 316.228, F.S.; revising requirements for lamps on projecting loads; amending s. 320.08, F.S.; redefining

the term "goat" to include certain additional farm equipment for purposes of the annual license tax imposed on trucks; amending s. 403.714, F.S.; deleting a requirement that the department coordinate development of uniform product specifications for compost used by state agencies; amending s. 487.041, F.S.; authorizing the department to require and review data relating to the claims of pesticide products used as preventive treatment for termites; authorizing the department to adopt rules; amending s. 500.09, F.S.; authorizing fees for certain reinspection of food establishments; amending s. 500.12, F.S.; increasing the maximum fee for a food permit; limiting the use of such fees; amending ss. 502.012, 502.014, F.S.; revising references relating to the pasteurized milk ordinance and milk sanitation; deleting a requirement that a copy of a federal temporary marketing permit for milk and milk products be forwarded to the department; amending s. 502.053, F.S.; clarifying milk testing requirements; amending s. 502.091, F.S.; authorizing the department to forgo the grading of certain milk products in an emergency; providing for labeling; amending s. 503.041, F.S.; providing that an attempted or purported transfer of a frozen dessert plant license is grounds for its suspension or revocation; repealing ss. 504.21, 504.22, 504.23, 504.24, 504.25, 504.26, 504.27, 504.28, 504.29, 504.31, 504.32, 504.33, 504.34, 504.35, 504.36, F.S.; eliminating the Florida Organic Farming and Food Law; repealing ss. 536.20, 536.21, 536.22, F.S., relating to timber and lumber; repealing s. 570.381, F.S., relating to Apalooosa racing; amending ss. 550.2625, 550.2633, F.S.; conforming cross-references; amending s. 570.07, F.S.; authorizing the department to conduct investigations of violations of laws relating to consumer protection; authorizing the department to repair or construct structures; amending s. 503.071, F.S.; providing for the embargo, detainment, or destruction of food or food processing equipment of a frozen dessert manufacturer; amending s. 570.244, F.S.; clarifying powers and duties of the department relating to the development of agribusinesses; amending s. 570.249, F.S.; clarifying aquacultural crops eligible for Agricultural Economic Development Program disaster loans; revising loan application requirements; directing the department to establish an agribusiness market development grant program; amending s. 570.38, F.S.; increasing membership of the Animal Industry Technical Council; amending s. 580.031, F.S.; revising definitions; amending s. 580.051, F.S.; revising label requirements for feed; amending s. 580.065, F.S.; revising feed laboratory procedures; amending s. 580.091, F.S.; removing intent language regarding feed sampling and analysis; amending s. 580.112, F.S.; expanding prohibited acts; amending s. 581.211, F.S.; providing a penalty for violation of rules relating to plant industry; amending s. 585.002, F.S.; prohibiting regulation of care and treatment of livestock and poultry by other agencies when the department has undertaken to do so; amending s. 585.145, F.S.; prescribing requirements with respect to veterinarians who may inspect animals for disease; amending s. 585.155, F.S.; revising vaccination requirements for calves; amending s. 589.19, F.S.; naming a state forest; amending s. 616.242, F.S.; providing additional exemptions from amusement ride safety standards; amending s. 828.22, F.S.; creating the "Humane Slaughter Act"; revising provisions relating to humane slaughter and livestock euthanasia; amending s. 828.23, F.S.; revising definitions; amending s. 828.24, F.S.; revising provisions relating to prohibited acts; amending s. 828.25, F.S.; revising provisions relating to administration of the act by the department; creating s. 828.251, F.S.; directing the department to make current technical information available to slaughterers; creating s. 828.252, F.S.; providing for humane treatment of nonambulatory animals; amending s. 828.26, F.S.; revising penalties; amending ss. 427.804, 559.921, F.S.; conforming cross-references; repealing s. 570.544(10) and (11), F.S., relating to authority of the Division of Consumer Services of the department to conduct investigations of violations of laws relating to consumer protection; providing effective dates.

—was read the second time by title.

Senator Geller moved the following amendments which were adopted:

**Amendment 1 (553676)**—On page 5, delete line 12 and insert: *department, and those private or public entities providing at no cost, or de minimus cost,*

**Amendment 2 (161398)**—On page 5, lines 14-18, delete those lines and insert: *be held liable for civil damages resulting from use or possession of such items. Private or public entities that donate fire/rescue equipment, vehicles, or supplies directly to state, county, or local governmental entities having fire/rescue responsibilities shall not be held liable for civil damages*

**Amendment 3 (722182)(with title amendment)**—On page 13, delete line 27 and insert: *repealed. This section shall take effect December 31, 2002.*

And the title is amended as follows:

On page 2, line 19, after the semicolon (;) insert: *providing an effective date;*

**Amendment 4 (593834)(with title amendment)**—On page 16, lines 25-28, delete those lines

And the title is amended as follows:

On page 2, lines 27 and 28, delete those lines and insert: *protection;* amending s.

**Amendment 5 (124602)**—On page 17, lines 22-28, delete those lines and insert:

570.249 Agricultural Economic Development Program disaster loans *and grants and aid.*—

(2) ELIGIBLE CROPS.—Crops eligible for the emergency loan program include:

(d) Specialty crops, such as *seafood and aquaculture, including, but not limited to, the products of shellfish cultivation and harvesting, ornamental fish farming, and commercial fishing;*

**Amendment 6 (530086)(with title amendment)**—On page 33, line 28 through page 34, line 9, delete those lines.

And the title is amended as follows:

On page 3, lines 21-25, delete those lines and insert: *relating to plant industry;* amending s. 585.145, F.S.; prescribing

**Amendment 7 (980394)(with title amendment)**—On page 43, between lines 24 and 25, insert:

Section 45. Effective October 1, 2001, section 604.60, Florida Statutes, is created to read:

604.60 *Damage or destruction of agricultural crops; civil action.*—

(1) *Any private, public, or commercial agricultural grower or producer who grows or produces any agricultural product, as defined in s. 468.382(7), for personal, research, or commercial purposes or for testing or research purposes in a product development program conducted in conjunction or coordination with a private research facility, a university, or any federal, state, or local government agency who suffers damages as a result of another person's willful and knowing damage or destruction of any such agricultural product has a cause of action for damages equal to double the amount of the value of the product damaged or destroyed, including the cost of any experimental product replication, and for any other relief a court of competent jurisdiction deems appropriate, including, but not limited to, compensatory and punitive damages. In awarding damages under this section, the courts shall consider the market value of the product prior to damage or destruction, and production, research, testing, replacement, and product development costs directly related to the product that has been damaged or destroyed as part of the value of the product. The prevailing party in any action brought pursuant to this section is entitled to an award of reasonable attorney's fees and court costs.*

Section 46. Effective October 1, 2001, section 810.09, Florida Statutes, is amended to read:

810.09 *Trespass on property other than structure or conveyance.*—

(1)(a) A person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:

1. As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation as described in s. 810.011; or

2. If the property is the unenclosed curtilage of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass,

commits the offense of trespass on property other than a structure or conveyance.

(b) As used in this section, the term "unenclosed curtilage" means the unenclosed land or grounds, and any outbuildings, that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling.

(2)(a) Except as provided in this subsection, trespass on property other than a structure or conveyance is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the offender defies an order to leave, personally communicated to the offender by the owner of the premises or by an authorized person, or if the offender willfully opens any door, fence, or gate or does any act that exposes animals, crops, or other property to waste, destruction, or freedom; unlawfully dumps litter on property; or trespasses on property other than a structure or conveyance, the offender commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) If the offender is armed with a firearm or other dangerous weapon during the commission of the offense of trespass on property other than a structure or conveyance, he or she is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any owner or person authorized by the owner may, for prosecution purposes, take into custody and detain, in a reasonable manner, for a reasonable length of time, any person when he or she reasonably believes that a violation of this paragraph has been or is being committed, and that the person to be taken into custody and detained has committed or is committing such violation. In the event a person is taken into custody, a law enforcement officer shall be called as soon as is practicable after the person has been taken into custody. The taking into custody and detention in compliance with the requirements of this paragraph does not result in criminal or civil liability for false arrest, false imprisonment, or unlawful detention.

(d) The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed is a construction site that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(e) The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is commercial horticulture property and the property is legally posted and identified in substantially the following manner: "THIS AREA IS DESIGNATED COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(f) The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is an agricultural site for testing or research purposes that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH PURPOSES, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(g)(f) Any person who in taking or attempting to take any animal described in s. 372.001(3) or (4), or in killing, attempting to kill, or endangering any animal described in s. 585.01(13) knowingly propels or causes to be propelled any potentially lethal projectile over or across private land without authorization commits trespass, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this paragraph, the term "potentially lethal projectile" includes any projectile launched from any firearm, bow, cross-bow, or similar tensile device. This section shall not apply to any governmental agent or employee acting within the scope of his or her official duties.

(3) As used in this section, the term "authorized person" or "person authorized" means any owner, or his or her agent, or any law enforcement officer whose department has received written authorization from the owner, or his or her agent, to communicate an order to leave the property in the case of a threat to public safety or welfare.

Section 47. Effective October 1, 2001, for the purpose of incorporating the amendment to section 810.09, Florida Statutes, in references thereto, paragraph (b) of subsection (5) of section 260.0125, Florida Statutes, is reenacted to read:

260.0125 Limitation on liability of private landowners whose property is designated as part of the statewide system of greenways and trails.—

(5)

(b) Such notices must comply with s. 810.011(5) and shall constitute a warning to unauthorized persons to remain off the private property and not to depart from the designated greenway or trail. Any person who commits such an unauthorized entry commits a trespass as provided in s. 810.09.

Section 48. Effective October 1, 2001, for the purpose of incorporating the amendment to section 810.09, Florida Statutes, in references thereto, paragraph (b) of subsection (5) of section 810.011, Florida Statutes, is reenacted to read:

810.011 Definitions.—As used in this chapter:

(5)

(b) It shall not be necessary to give notice by posting on any enclosed land or place not exceeding 5 acres in area on which there is a dwelling house in order to obtain the benefits of ss. 810.09 and 810.12 pertaining to trespass on enclosed lands.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 16, after the semicolon (;) insert: creating s. 604.60, F.S.; providing that certain agricultural growers or producers shall have a right to recover damages as a result of willful and knowing damage or destruction of specified agricultural products; providing considerations and limits in award of damages; providing for costs and attorney's fees; amending s. 810.09, F.S.; prohibiting trespass upon specified legally posted agricultural sites; providing a penalty; reenacting ss. 260.0125(5)(b) and 810.011(5)(b), F.S., to incorporate the amendment to s. 810.09, F.S., in references thereto;

Senator Bronson moved the following amendment which was adopted:

**Amendment 8 (254956)(with title amendment)**—On page 43, between lines 26 and 27, insert:

Section 46. Section 373.621, Florida Statutes, is created to read:

373.621 *Water conservation.*—*The Legislature recognizes the significant value of water conservation in the protection and efficient use of water resources. Accordingly, consideration in the administration of s. 373.223, s. 373.233 and s. 373.236 shall be given to applicants who implement water conservation practices pursuant to s. 570.085 or other applicable water conservation measures as determined by the department or a water management district.*

And the title is amended as follows:

On page 4, line 21, following the semicolon (;) insert: creating s. 373.621, F.S.; providing consideration for certain applicants who implement water conservation practices;

Senator Geller moved the following amendment which was adopted:

**Amendment 9 (671496)(with title amendment)**—On page 43, between lines 26 and 27, insert:

Section 46. Section 601.48, Florida Statutes, is amended to read:

601.48 Grading processed citrus products.—

(1) ~~All processed citrus products for which grade standards may be established, if sold, shipped, or offered for sale or shipment, except as provided in s. 601.50, shall be inspected for grade in a registered processing plant, and shall be graded according to standards established by the Department of Citrus, and the grade of such processed citrus products shall be designated on the immediate container thereof in such manner as the Department of Citrus may by rule prescribe.~~

(1)(2) If such processed citrus products meet the requirements of the two highest grades as established by the Department of Citrus or, at the option of the processor, the two highest grades established by the United States Department of Agriculture, the processor shall have the privilege, in lieu of the grade declaration requirements of subsection (1), of using labels, brands, or trademarks properly registered with the Department of Citrus, as provided in subsection (3), to represent state or U.S. grades.

(2)(3) In accordance with such rules as the Department of Citrus may prescribe, licensed citrus fruit dealers in this state shall be entitled to register labels, brands, or trademarks for grade identification purposes. The department shall maintain a record of all labels, brands, and trademarks registered for grade identification purposes, which record may be purged as necessary.

(3)(4) The grade labeling requirements of this section shall not apply to intrastate shipments of processed citrus products between licensed citrus fruit dealers who are operators of processing plants duly registered under s. 601.40.

Section 47. *The Florida Department of Citrus, or its successor, may collect dues, contributions, or any other financial payment upon request by and on behalf of any not-for-profit corporation and, its related not-for-profit corporations, located in this state which receives payments or dues from its members. Such not-for-profit corporation must be engaged, to the exclusion of agricultural commodities other than citrus, in market news and grower education solely for citrus growers, and must have at least 5,000 members who are engaged in growing citrus in this state for commercial sale.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 21, after the semicolon (;) insert: amending section 601.48, F.S.; eliminating provisions relating to inspection of processed citrus products for grade and subsequent grading and designation thereof; authorizing the Florida Department of Citrus or its successor, to collect dues, contributions, or any other financial payment upon request by and on behalf of any not-for-profit corporation;

Senator Bronson moved the following amendment which was adopted:

**Amendment 10 (733446)(with title amendment)**—On page 43, between lines 26 and 27, insert:

Section 46. Paragraph (c) of subsection (1) of section 232.246, Florida Statutes, is amended to read:

232.246 General requirements for high school graduation.—

(1) Graduation requires successful completion of either a minimum of 24 academic credits in grades 9 through 12 or an International Baccalaureate curriculum. The 24 credits shall be distributed as follows:

(c) Three credits in science, two of which must have a laboratory component. The State Board of Education may grant an annual waiver of the laboratory requirement to a school district that certifies that its laboratory facilities are inadequate, provided the district submits a capital outlay plan to provide adequate facilities and makes the funding of this plan a priority of the school board. *Effective July 1, 2001, Agriscience Foundations I, the core course in secondary Agriscience and Natural Resources programs, counts as one of the science credits.*

And the title is amended as follows:

On page 4, line 21, following the semicolon (;) insert: amending s. 232.246, F.S.; authorizing Agriscience Foundations I to count as a science credit; providing an effective date;

Senator Geller moved the following amendment which was adopted:

**Amendment 11 (762582)(with title amendment)**—On page 43, between lines 26 and 27, insert:

Section 46. *The following councils and authorities, created pursuant to section 570.0705, Florida Statutes, and chapter 90-487, Laws of Florida, are abolished:*

(1) *Agriculture and Livestock Fair Council.*

(2) *Florida City State Farmers Market Advisory Committee.*

(3) *Fort Myers State Farmers Market Advisory Council.*

(4) *Fort Pierce State Farmers Market Advisory Council.*

(5) *Gadsden County State Farmers Market Advisory Council.*

(6) *Immokalee State Farmers Market Advisory Council.*

(7) *Nitrate Bill Best Management Practices Advisory Group.*

(8) *Palatka State Farmers Market Advisory Council.*

(9) *Plant City State Farmers Market Advisory Council.*

(10) *Pompano Beach Farmers Market Authority.*

(11) *Racing Quarter Horse Advisory Council.*

(12) *Sanford State Farmers Market Advisory Council.*

(13) *Seed Potato Advisory Council.*

(14) *Starke State Farmers Market Advisory Council.*

(15) *Suwanee Valley State Farmers Market Advisory Council.*

(16) *Trenton State Farmers Market Advisory Council.*

(17) *Tropical Soda Apple Task Force.*

(18) *Wauchula State Farmers Market Advisory Council.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 21, following the semicolon (;) insert: abolishing specified authorities and councils advisory to the department;

Senator Bronson moved the following amendment which was adopted:

**Amendment 12 (925018)(with title amendment)**—On page 43, between lines 26 and 27, insert:

Section 46. Section 570.085, Florida Statutes, is created to read:

*570.085 Department of Agriculture and Consumer Services; agricultural water conservation.—The department shall establish an agricultural water conservation program that includes the following:*

(1) *A cost share program, coordinated where appropriate with the United States Department of Agriculture and other federal, state, regional, and local agencies, for irrigation system retrofit and application of mobile irrigation laboratory evaluations for water conservation as provided in this section and, where applicable, for water quality improvement pursuant to s. 403.067(7)(d).*

(2) *The development and implementation of voluntary interim measures or best management practices, adopted by rule, which provide for increased efficiencies in the use and management of water for agricultural production. In the process of developing and adopting rules for interim measures or best management practices, the department shall consult with the Department of Environmental Protection and the water management districts. Such rules may also include a system to assure the implementation of the practices, including recordkeeping requirements. As new information regarding efficient agricultural water use and management becomes available, the department shall reevaluate and revise as needed, the interim measures or best management practices. The interim measures or best management practices may include irrigation retrofit, implementation of mobile irrigation laboratory evaluations and recommendations, water resource augmentation, and integrated water management systems for drought management and flood control and should, to the maximum extent practicable, be designed to qualify for regulatory incentives and other incentives, as determined by the agency having applicable statutory authority.*

(3) *Provision of assistance to the water management districts in the development and implementation of a consistent, to the extent practicable, methodology for the efficient allocation of water for agricultural irrigation.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 21, following the semicolon (;) insert: creating s. 570.085, F.S.; creating an agricultural water conservation program within the department;

## THE PRESIDENT PRESIDING

### MOTION

On motion by Senator Mitchell, the rules were waived to allow the following amendment to be considered:

Senator Mitchell moved the following amendment which was adopted:

**Amendment 13 (370734)(with title amendment)**—On page 4, line 24, insert:

Section 1. Subsection (2) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special risk membership.—

(2) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(a) The member must be employed as a law enforcement officer and be certified, or required to be certified, in compliance with s. 943.1395; however, sheriffs and elected police chiefs shall be excluded from meeting the certification requirements of this paragraph. In addition, the member's duties and responsibilities must include the pursuit, apprehension, and arrest of law violators or suspected law violators; or the member must be an active member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices; or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(b) The member must be employed as a firefighter and be certified, or required to be certified, in compliance with s. 633.35 and be employed solely within the fire department of a local government the employer or an agency of state government with firefighting responsibilities. In addition, the member's duties and responsibilities must include on-the-scene fighting of fires or direct supervision of firefighting units or aerial firefighting surveillance performed by fixed-wing aircraft pilots employed by the Division of Forestry of the Department of Agriculture and Consumer Services, or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(c) The member must be employed as a correctional officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included; however, wardens and assistant wardens, as defined by rule, shall participate in the Special Risk Class;

(d) The member must be employed by a licensed Advance Life Support (ALS) or Basic Life Support (BLS) employer as an emergency medical technician or a paramedic and be certified in compliance with s. 401.27. In addition, the member's primary duties and responsibilities must include on-the-scene emergency medical care. However, administrative support personnel, including, but not limited to, those whose primary responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(e) The member must be employed as a community-based correctional probation officer and be certified, or required to be certified, in

compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within the community; or the member must be the supervisor of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal services, and personnel management, shall not be included; however, probation and parole circuit and deputy circuit administrators shall participate in the Special Risk Class; or

(f) The member must be employed in one of the following classes and must spend at least 75 percent of his or her time performing duties which involve contact with patients or inmates in a correctional or forensic facility or institution:

1. Dietitian (class codes 5203 and 5204).
2. Public health nutrition consultant (class code 5224).
3. Psychological specialist (class codes 5230 and 5231).
4. Psychologist (class code 5234).
5. Senior psychologist (class codes 5237 and 5238).
6. Regional mental health consultant (class code 5240).
7. Psychological Services Director—DCF (class code 5242).
8. Pharmacist (class codes 5245 and 5246).
9. Senior pharmacist (class codes 5248 and 5249).
10. Dentist (class code 5266).
11. Senior dentist (class code 5269).
12. Registered nurse (class codes 5290 and 5291).
13. Senior registered nurse (class codes 5292 and 5293).
14. Registered nurse specialist (class codes 5294 and 5295).
15. Clinical associate (class codes 5298 and 5299).
16. Advanced registered nurse practitioner (class codes 5297 and 5300).
17. Advanced registered nurse practitioner specialist (class codes 5304 and 5305).
18. Registered nurse supervisor (class codes 5306 and 5307).
19. Senior registered nurse supervisor (class codes 5308 and 5309).
20. Registered nursing consultant (class codes 5312 and 5313).
21. Quality management program supervisor (class code 5314).
22. Executive nursing director (class codes 5320 and 5321).
23. Speech and hearing therapist (class code 5406); or
24. Pharmacy manager (class code 5251).

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 and 3, delete those lines and insert: An act relating to the state government; amending s. 121.0515, F.S., relating to special risk membership; revising criteria for firefighters; amending s. 120.80, F.S.; providing

Senator Geller moved the following amendments which were adopted:

**Amendment 14 (053230)(with title amendment)**—On page 43, between lines 26 and 27, insert:

Section 46. *Official citrus archive.*—The Florida Citrus Archives, dedicated to Thomas B. Mack and located at Florida Southern College in Lakeland, are designated as the official citrus archive of Florida.

And the title is amended as follows:

On page 4, line 21, after the semicolon (;) insert: designating the official citrus archive of Florida;

**Amendment 15 (555262)(with title amendment)**—On page 43, between lines 26 and 27, insert:

Section 46. *If any clause, section, or provision of this act shall be declared unconstitutional or invalid for any reason, it shall be eliminated from this act, and the remaining portion of the act shall be in full force and effect and be as valid as if such invalid portion thereof had not been incorporated therein.*

And the title is amended as follows:

On page 4, line 21, after the semicolon (;) insert: providing for severability;

**Amendment 16 (261464)**—On page 16, delete line 11 and insert: *has occurred, the department with the coordination of the Department of Legal Affairs and any state attorney, if the violation has occurred or is occurring within her or his judicial circuit, shall have the authority to bring*

Senator Geller moved the following amendment:

**Amendment 17 (563444)**—On page 10, delete line 16 and insert: determined by department rule, which may not exceed \$750 and

Senator King moved the following substitute amendment which was adopted:

**Amendment 18 (450034)**—On page 10, delete line 16 and insert: determined by department rule, which may not exceed \$500 and

Senator Mitchell moved the following amendment which was adopted:

**Amendment 19 (863600)(with title amendment)**—On page 5, between lines 19 and 20, insert:

Section 3. Effective January 1, 2002, paragraph (c) of subsection (6) of section 193.461, Florida Statutes, is amended to read:

193.461 Agricultural lands; classification and assessment; mandated eradication or quarantine program.—

(6)

(c)1. For purposes of the income methodology approach to assessment of property used for agricultural purposes, irrigation systems, including pumps and motors, physically attached to the land shall be considered a part of the average yields per acre and shall have no separately assessable contributory value.

2. *Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms shall be assessed by the methodology described in subparagraph 1.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 11, after the first semicolon (;) insert: amending s. 193.461, F.S.; providing that, for purposes of the income methodology approach to such assessment, certain litter containment and animal waste nutrient containment structures shall be considered a part of the average yields per acre and have no separately assessable contributory value;

Pursuant to Rule 4.19, **CS for SB 1922** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Smith—

**CS for SB 408**—A bill to be entitled An act relating to electric utility service interruptions; creating s. 768.138, F.S.; providing electric utilities with a complete defense in certain actions for certain law enforcement assistance activities; providing an effective date.

—was read the second time by title.

Senator Smith moved the following amendment which was adopted:

**Amendment 1 (814292)**—On page 1, line 23, after “actions.” insert: *However, this provision does not create a duty of care where none existed prior to the enactment of this section.*

Pursuant to Rule 4.19, **CS for SB 408** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Pruitt—

**SB 482**—A bill to be entitled An act relating to statutory accounting principles; creating s. 625.011, F.S.; defining the terms “statutory accounting principles” and “surplus notes”; amending s. 625.012, F.S.; providing for what constitutes an asset of an insurer; amending s. 625.031, F.S.; providing for assets not allowed in determining financial condition of an insurer; amending s. 625.041, F.S.; revising what constitutes a liability; amending s. 625.141, F.S.; providing for the valuation of bonds; amending s. 625.161, F.S.; revising requirements for new appraisals in valuation of real property; amending s. 641.19, F.S.; redefining the terms “reporting period,” “statutory accounting principles,” “surplus,” and “surplus notes” for purposes of the Health Maintenance Organization Act; amending s. 641.35, F.S.; providing for what constitutes an asset or liability in determining the financial condition of a health maintenance organization; providing a retroactive effective date.

—was read the second time by title.

## MOTION

On motion by Senator Pruitt, the rules were waived and time of recess was extended until completion of **SB 482**, returning House Message on **CS for SB 1118**, motions and announcements.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Pruitt:

**Amendment 1 (195056)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Subsection (14) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.—

(14) The department may adopt rules implementing the provisions of this section. Rules are authorized to protect the interests of insureds, claimants, ceding insurers, assuming insurers, and the public. These rules shall be in substantial compliance with:

(a) The National Association of Insurance Commissioners model regulations relating to credit for reinsurance;

(b) Version 2001 ~~4999~~ of the National Association of Insurance Commissioners Accounting Practices and Procedures Manual; and

(c) The National Association of Insurance Commissioners model regulation for Credit for Reinsurance and Life and Health Reinsurance Agreements.

The department may further adopt rules to provide for transition from existing requirements for the approval of reinsurers to the accreditation of reinsurers pursuant to this section.

Section 2. Section 625.011, Florida Statutes, is created to read:

625.011 *Definitions.—As used in this chapter, the term “statutory accounting principles” means accounting principles as defined in the National Association of Insurance Commissioners Accounting Practices and Procedures Manual effective January 1, 2001.*

Section 3. Subsections (1) and (11) of section 625.012, Florida Statutes, are amended, present subsection (12) of that section is redesignated as subsection (16), and new subsections (12), (13), (14), and (15) are added to that section to read:

625.012 "Assets" defined.—In any determination of the financial condition of an insurer, there shall be allowed as "assets" only such assets as are owned by the insurer and which consist of:

(1) Cash or cash equivalents, in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank, savings and loan association, or trust company. *Cash equivalents are short-term, highly liquid investments, with original maturities of 3 months or less, which are both readily convertible to known amounts of cash and so near their maturity that they present insignificant risk of changes in value because of changes in interest rates.*

(11) Electronic and mechanical machines, including computer-operating software equipment and system software constituting a data processing and accounting system, if the cost of which such system is at least \$25,000, which cost shall be amortized in full over a period not to exceed 3 7 calendar years. *The aggregate amount admitted under this subsection shall be limited to 3 percent of the insurer's capital and surplus, adjusted to exclude any electronic data processing equipment and operating software, net deferred tax assets, and net positive goodwill, as reported on the insurer's most recently filed annual statement.*

(12) *Goodwill arising from acquisitions and mergers occurring after January 1, 2001.*

(13) *Loans or advances by an insurer to its parent or principal owner if approved by the department.*

(14) *Current income tax recoverables.*

(15) *Capitalized interest.*

~~(16)(12)~~ Other assets, not inconsistent with the provisions of this section, deemed by the department to be available for the payment of losses and claims, at values to be determined by it.

Section 4. Section 625.031, Florida Statutes, is amended to read:

625.031 Assets not allowed.—In addition to assets impliedly excluded by the provisions of s. 625.012, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) ~~Good will~~, Trade names, *patents, agreements not to compete*, and other like intangible assets.

(2) Advances (other than policy loans) to officers *and*, directors, ~~and controlling stockholders~~, whether secured or not, and advances to employees, agents, and other persons on personal security only.

(3) Stock of such insurer, owned by it, or any material equity therein or loans secured thereby, or any material proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation, or business unit.

(4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature, and supplies, other than data processing and accounting systems authorized under s. 625.012(11), except in the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under s. 625.330 and except, in the case of any insurer, such personal property as the insurer is permitted to hold pursuant to part II of this chapter, or which is acquired through foreclosure of chattel mortgages acquired pursuant to s. 625.329, or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office, and similar purposes.

(5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code.

(6) Bonds, notes, or other evidences of indebtedness which are secured by mortgages or deeds of trust which are in default.

(7) Prepaid and deferred expenses.

~~(8) Federal income tax refunds when a refund is not assured.~~

Section 5. Paragraph (d) of subsection (2) of section 625.041, Florida Statutes, is amended to read:

625.041 Liabilities, in general.—In any determination of the financial condition of an insurer, liabilities to be charged against its assets shall include:

(2) With reference to life and health insurance and annuity contracts:

(d) Any additional reserves *that which* may be required by the department consistent with practice formulated or approved by the National Association of Insurance Commissioners or its successor organization, on account of such insurance, *including contract and premium deficiency reserves.*

Section 6. Subsection (2) of section 625.141, Florida Statutes, is amended to read:

625.141 Valuation of bonds.—

(2) The department shall have full discretion in determining the method of calculating values according to the rules set forth in this section, but no such method or valuation shall be inconsistent with the method formulated or approved by the National Association of Insurance Commissioners or its successor organization and set forth in the latest edition of its publication "Valuation of Securities"; provided that such valuation methodology is substantially similar to the methodology used by the National Association of Insurance Commissioners in its ~~2001~~ ~~1988~~ edition of such publication. *Amortization of bond premium or discount must be calculated using the scientific (constant yield) interest method taking into consideration specified interest and principal provisions over the life of the bond. Bonds containing call provisions shall be amortized to the call or maturity value or date that produces the lowest asset value.*

Section 7. Section 625.161, Florida Statutes, is amended to read:

625.161 Valuation of property.—

(1) *Real property owned by an insurer which is reported in financial statements filed with the department shall be valued at the lower of depreciated cost or fair market value.*

~~(2)(1)~~ Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the department to be reliable, shall not be valued at an amount greater than the unpaid principal and accrued interest of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

~~(3)(2)~~ Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal. If the valuation of *real property* is based on an appraisal more than 5 3 years old, the department may, at its discretion, call for and require a new appraisal in order to determine fair *market* value.

~~(4)(3)~~ Personal property acquired pursuant to chattel mortgages made in accordance with s. 625.329 shall not be valued at an amount greater than the unpaid balance of principal and accrued interest on the defaulted loan at the date of acquisition, together with taxes and expenses incurred in connection with such acquisition, or the fair value of such property, whichever amount is the lesser.

~~(5)(4)~~ In carrying out its responsibilities under this section, in the event that the department and the insurer do not agree on the value of real or personal property of such insurer, the department may retain the services of a qualified real or personal property appraiser. In the event it is subsequently determined that the insurer has overvalued assets, the department shall be reimbursed for the costs of the services of any such appraiser incurred with respect to its responsibilities under this section regarding an insurer by said insurer and any reimbursement shall be deposited in the Insurance Commissioner's Regulatory Trust Fund.

*(6) Any insurer that reported real estate as of December 31, 2000, with a value in excess of that allowed by subsection (1) shall comply with the requirements of that subsection beginning January 1, 2001.*



Section 8. Section 625.322, Florida Statutes, is amended to read:

625.322 Collateral loans.—An insurer may invest in loans with a maturity not in excess of 12 years from the date thereof which are secured by the pledge of *assets permitted by part I of this chapter securities eligible for investment under this chapter or by the pledge or assignment of life insurance policies issued by other insurers authorized to transact insurance in this state. On the date made, no such loan shall exceed in amount 80 percent of the market value of the collateral pledged, except that loans upon pledge of United States Government bonds and loans upon the pledge or assignment of life insurance policies shall not exceed 95 percent of the market value of the bonds or the cash surrender value of the policies pledged. Loans made pursuant to this section shall not be admitted as an asset when it is considered probable that any portion of the amounts due under the contractual terms of the loan will not be collected renewable beyond a period of 12 years from the date of the loan. Collateral loans reported in financial statements filed with the department shall not exceed the value of the collateral held by the company.*

Section 9. Subsections (16), (17), and (20) of section 641.19, Florida Statutes, are amended to read:

641.19 Definitions.—As used in this part, the term:

(16) "Reporting period" means the annual *calendar year* accounting period or any part thereof ~~or the fiscal year of the health maintenance organization.~~

(17) "Statutory accounting principles" means *accounting principles as defined in the National Association of Insurance Commissioners Accounting Practices and Procedures Manual effective January 1, 2001 generally accepted accounting principles, except as modified by this part.*

(20) "~~Surplus notes~~" means ~~debt which has been guaranteed by the United States Government or its agencies, or debt which has been subordinated to all claims of subscribers and general creditors of the organization.~~

Section 10. Subsections (1), (2), and (3) of section 641.35, Florida Statutes, are amended to read:

641.35 Assets, liabilities, and investments.—

(1) ASSETS.—In any determination of the financial condition of a health maintenance organization, there shall be allowed as "assets" only those assets that are owned by the health maintenance organization and ~~that which assets~~ consist of:

(a) *Cash or cash equivalents* in the possession of the health maintenance organization, or in transit under its control, including the true balance of any deposit in a solvent bank, savings and loan association, or trust company which is domiciled in the United States. *Cash equivalents are short-term, highly liquid investments, with original maturities of 3 months or less, which are both readily convertible to known amounts of cash and so near their maturity that they present insignificant risk of changes in value because of changes in interest rates.*

(b) Investments, securities, properties, and loans acquired or held in accordance with this part, and in connection therewith the following items:

1. Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

2. Declared and unpaid dividends on stock and shares, unless the amount of the dividends has otherwise been allowed as an asset.

3. Interest due or accrued upon a collateral loan which is not in default in an amount not to exceed 1 year's interest thereon.

4. Interest due or accrued on deposits or certificates of deposit in solvent banks, savings and loan associations, and trust companies domiciled in the United States, and interest due or accrued on other assets, if such interest is in the judgment of the department a collectible asset.

5. Interest due or accrued on current mortgage loans, in an amount not exceeding in any event the amount, if any, of the excess of the value

of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of 90 days be allowed as an asset.

~~6. Rent due or accrued on real property if such rent is not in arrears for more than 3 months. However, in no event shall rent accrued for a period in excess of 90 days be allowed as an asset.~~

~~7. The unaccrued portion of taxes paid prior to the due date on real property.~~

(c) Premiums in the course of collection, not more than 3 months past due, less commissions payable thereon. The foregoing limitation shall not apply to premiums payable directly or indirectly by any governmental body in the United States or by any of their instrumentalities.

(d) The full amount of reinsurance recoverable from a solvent reinsurer, which reinsurance is authorized under s. 624.610.

~~(e) Furniture, fixtures, furnishings, vehicles, medical libraries, and equipment, if the original cost of each item is at least \$200, which cost shall be amortized in full over a period not to exceed 5 calendar years, unless otherwise approved by the department.~~

~~(e)(f)~~ Pharmaceutical and medical supply inventories.

~~(f) Goodwill created by acquisitions and mergers occurring on or after January 1, 2001.~~

~~(g) Loans or advances by a health maintenance organization to its parent or principal owner if approved by the department.~~

~~(g) The liquidation value of prepaid expenses.~~

(h) Other assets, not inconsistent with the provisions of this section, deemed by the department to be available for the payment of losses and claims, at values to be determined by it.

The department, upon determining that a health maintenance organization's asset has not been evaluated according to applicable law or that it does not qualify as an asset, shall require the health maintenance organization to properly reevaluate the asset or replace the asset with an asset suitable to the department within 30 days of receipt of written notification by the department of this determination, if the removal of the asset from the organization's assets would impair the organization's solvency.

(2) ASSETS NOT ALLOWED.—In addition to assets impliedly excluded by the provisions of subsection (1), the following assets expressly shall not be allowed as assets in any determination of the financial condition of a health maintenance organization:

(a) ~~Goodwill~~, Subscriber lists, patents, trade names, agreements not to compete, and other like intangible assets.

(b) Any note or account receivable from or advances to officers, directors, or controlling stockholders, whether secured or not, and advances to employees, agents, or other persons on personal security only, *other than those transactions authorized under paragraph (1)(g).*

(c) Stock of the health maintenance organization owned by it directly or owned by it through any entity in which the organization owns or controls, directly or indirectly, more than 25 percent of the ownership interest.

(d) Leasehold improvements, nonmedical libraries, stationery, literature, and nonmedical supply inventories, except that leasehold improvements made prior to October 1, 1985, shall be allowed as an asset and shall be amortized over the shortest of the following periods:

1. The life of the lease.

2. The useful life of the improvements.

3. The 3-year period following October 1, 1985.

~~(e) Furniture, fixtures, furnishings, vehicles, medical libraries, and equipment, other than those items authorized under paragraph (1)(e).~~

(f) Notes or other evidences of indebtedness which are secured by mortgages or deeds of trust which are in default and beyond the express period specified in the instrument for curing the default.

- (g) Bonds in default for more than 60 days.
- (h) ~~Deferred costs other than the liquidation value of Prepaid and deferred expenses.~~
- (i) Any note, account receivable, advance, or other evidence of indebtedness, or investment in:
1. The parent of the health maintenance organization;
  2. Any entity directly or indirectly controlled by the health maintenance organization parent; or
  3. An affiliate of the parent or the health maintenance organization,
- except as allowed in subsections (1), (11), and (12). The department may, however, allow all or a portion of such asset, at values to be determined by the department, if deemed by the department to be available for the payment of losses and claims.

(3) **LIABILITIES.**—In any determination of the financial condition of a health maintenance organization, liabilities to be charged against its assets shall include:

- (a) The amount, estimated consistently with the provisions of this part, necessary to pay all of its unpaid losses and claims incurred for or on behalf of a subscriber, on or prior to the end of the reporting period, whether reported or unreported, *including contract and premium deficiency reserves.*
- (b) The amount equal to the unearned portions of the gross premiums charged on health maintenance contracts in force.
- (c) Taxes, expenses, and other obligations due or accrued at the date of the statement.

The department, upon determining that a health maintenance organization has failed to report liabilities that should have been reported, shall require a corrected report which reflects the proper liabilities to be submitted by the organization to the department within 10 working days of receipt of written notification.

Section 11. *Any quarterly or annual statement that is required to be filed after the effective date of this act shall be prepared in accordance with the provisions of this act.*

Section 12. This act shall take effect upon becoming a law and shall apply retroactively to January 1, 2001, except that sections 9 and 10 shall take effect January 1, 2003.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to statutory accounting principles; amending s. 624.610, F.S.; updating a cross-reference; creating s. 625.011, F.S.; defining the term "statutory accounting principles"; amending s. 625.012, F.S.; providing for what constitutes an asset of an insurer; amending s. 625.031, F.S.; providing for assets not allowed in determining the financial condition of an insurer; amending s. 625.041, F.S.; revising a provision concerning liability; amending s. 625.141, F.S.; providing for the valuation of bonds; amending s. 625.161, F.S.; revising requirements for new appraisals in the valuation of real property; amending s. 625.322, F.S.; revising requirements for collateral loans; amending s. 641.19, F.S.; redefining the terms "reporting period," "statutory accounting principles," "surplus," and "surplus notes" for purposes of the Health Maintenance Organization Act; amending s. 641.35, F.S.; redefining certain assets or liabilities in the determination of the financial condition of a health maintenance organization; providing applicability; providing multiple effective dates, including a retroactive effective date.

Senator Pruitt moved the following amendments to **Amendment 1** which were adopted:

**Amendment 1A (064434)(with title amendment)**—On page 8, between lines 8 and 9, insert:

Section 9. Section 641.183, Florida Statutes, is created to read:

*641.183 Statutory accounting procedures; transition provisions.—All health maintenance organizations, authorized to do business under this*

*chapter on January 1, 2001, shall elect a transition method for compliance with statutory accounting principles as follows:*

(1) *Report assets acquired prior to June 30, 2001 in accordance with s. 641.35, Florida Statutes (2000), through December 31, 2005. Assets acquired on or after June 30, 2001 shall be accounted for in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual effective January 1, 2001. A health maintenance organization electing to report assets pursuant to this subsection shall maintain complete and detailed records reflecting such accounting treatment; or*

(2) *Report all assets in accordance with the NAIC Accounting Practices and Procedures Manual effective January 1, 2001.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 14, line 17, after the semicolon (;) insert: creating s. 641.183, F.S.; providing a transition selection for statutory accounting principles;

**Amendment 1B (110970)(with title amendment)**—On page 13, lines 23 and 24, delete those lines and insert: law and shall apply retroactively to January 1, 2001.

And the title is amended as follows:

On page 14, delete line 26 and insert: providing a

**Amendment 1** as amended was adopted.

Pursuant to Rule 4.19, **SB 482** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Posey, the Senate reverted to—

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has acceded to the request of the Senate for the appointment of a conference committee for CS for SB 1118.

The Speaker has appointed the following Representatives to the Conference Committee: Representative Byrd, Chair; Representatives Rubio, Goodlette, and Smith.

*John B. Phelps, Clerk*

**CS for SB 1118**—A bill to be entitled An act relating to elections; creating the Florida Election Reform Act of 2001; amending s. 97.021, F.S.; revising definitions; amending ss. 98.471, 100.341, 100.361, F.S.; removing provisions relating to voting systems that use voting machines or paper ballots; amending s. 101.015, F.S.; requiring the Division of Elections to review the voting systems certification standards to ensure that new technologies are available and appropriately certified for use; amending s. 101.151, F.S.; modifying specifications for ballots; requiring the Department of State to adopt rules prescribing uniform ballots; amending ss. 101.21, 101.24, 101.292, 101.341, 101.43, 101.49, 101.58, 101.71, 101.75, 104.30, 138.05, F.S.; removing provisions relating to voting machines and updating references, to conform; amending s. 101.5603, F.S.; deleting references to punchcard marking and voting devices; amending s. 101.5604, F.S.; providing for the use of precinct tabulation electronic or electromechanical voting systems in each county; amending s. 101.5606, F.S.; providing additional requirements for electronic and electromechanical voting systems; prohibiting the use of punchcard voting systems; amending s. 101.5614, F.S.; removing references to canvassing returns at central or regional locations, to conform; creating s. 101.595, F.S.; requiring supervisors of elections and the Department of State to report on overvotes and undervotes following the general election; amending s. 103.101, F.S., relating to the form of the presidential preference primary, to conform; amending s. 582.18, F.S., relating to the election of district supervisors; conforming a cross-reference; repealing ss. 100.071, 101.141, 101.181, 101.191, 101.251, 101.5609, F.S., relating to the specification and form of ballots, to conform; repealing ss. 101.011, 101.27, 101.28, 101.29, 101.32, 101.33,

101.34, 101.35, 101.36, 101.37, 101.38, 101.39, 101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, 101.56, 102.012(7), F.S., relating to voting machines, to conform; amending s. 97.021, F.S.; revising the definitions of the terms "absent elector" and "primary election"; providing additional definitions; creating s. 101.048, F.S.; providing procedures for voting and counting provisional ballots; amending s. 101.045, F.S.; requiring verification of an elector's eligibility if the elector's name is not on the precinct register; amending s. 101.5614, F.S.; providing for the return of provisional ballots to the supervisor of elections; providing for the canvass of provisional ballots; clarifying the standard for counting votes on spoiled ballots; amending s. 101.69, F.S.; allowing a voter who has requested an absentee ballot and who decides to vote at the polls on election day to vote a provisional ballot, if the absentee ballot is not returned; amending s. 102.111, F.S.; changing the composition of the Elections Canvassing Commission; revising deadlines for county returns; amending s. 102.112, F.S.; revising deadlines for certification of election results; requiring the acceptance of late-filed election returns in certain circumstances; increasing the fine for filing late-filed election returns; amending s. 102.141, F.S.; requiring the county canvassing board to provide public notice of time and place of the canvass of provisional ballots; modifying deadlines for submitting unofficial returns; revising requirements for an automatic machine recount; amending s. 102.166, F.S.; substantially modifying standards and procedures for manual recounts; amending s. 102.168, F.S.; revising the grounds for an election contest; creating s. 102.135, F.S.; prohibiting a member of the Elections Canvassing Commission or a member of the county canvassing board from rendering a post-election decision that may affect the outcome of any race in which the member publicly endorsed or solicited contributions; creating s. 97.0555, F.S.; providing for registration of certain military and overseas persons; requiring the Department of State to adopt rules specifying eligibility; creating s. 101.6951, F.S.; providing for a state write-in absentee ballot for overseas voters; creating s. 101.6952, F.S.; providing for absentee ballots for overseas voters; creating s. 101.697, F.S.; providing for absentee ballot requests and voting via electronic transmission by overseas voters under certain circumstances; creating s. 101.698, F.S.; authorizing the Elections Canvassing Commission to adopt emergency rules during crises to facilitate absentee voting; amending s. 101.62, F.S.; modifying information on absentee ballot requests; amending s. 101.64, F.S.; modifying absentee ballot certificates; amending s. 101.65, F.S.; modifying instructions to absent electors; amending s. 101.657, F.S., relating to voting absentee ballots; conforming provisions; amending s. 101.68, F.S.; modifying information that must be included on an absentee ballot; authorizing the processing of absentee ballots through tabulations for a specified period before the election; amending s. 104.047, F.S.; deleting a prohibition against persons witnessing more than five ballots in an election and a prohibition against returning more than two ballots in an election, and the penalties therefor; repealing ss. 101.647, 101.685, F.S., relating to returning absentee ballots and absentee ballot coordinators; amending s. 98.255, F.S.; providing for voter education; amending s. 101.031, F.S.; providing for a Voter's Bill of Rights and Responsibilities; providing responsibilities of supervisors of elections; amending s. 101.131, F.S.; eliminating a requirement to call out names of voters; creating s. 102.014, F.S.; providing for pollworker recruitment and training; repealing s. 102.012(8) and (9), relating to pollworker training, to conform; amending s. 102.021, F.S.; to correct a cross-reference; amending s. 97.073, F.S.; revising procedures to be followed when a voter registration application is incomplete; amending s. 98.015, F.S.; providing for the nonpartisan election of supervisors of elections; amending s. 105.031, F.S.; requiring candidates for supervisor of elections to pay a qualifying fee, subscribe to an oath, and file certain items in order to qualify for election; amending s. 105.035, F.S.; providing alternative procedures for candidates for supervisor of elections to qualify for election; amending s. 105.041, F.S.; providing for the form of the ballot for candidates for supervisor of elections; providing for write-in candidates for supervisor of elections; amending s. 105.051, F.S.; providing for determination of election to office of candidates for supervisor of elections; amending s. 105.061, F.S.; providing that supervisors of elections are to be elected by vote of the qualified electors of the county; amending s. 105.08, F.S.; providing requirements for candidates for supervisor of elections with respect to campaign contributions and expenses and their reporting; repealing s. 100.091, F.S., to eliminate the second primary election; repealing s. 100.096, F.S., relating to the holding of special elections in conjunction with the second primary election, to conform; amending ss. 97.055, 97.071, 97.1031, 98.081, F.S., relating to restrictions on changing party affiliation between primary elections, to conform; amending ss. 99.061, 99.095, F.S., relating to qualifying for nomination or election to

office, to conform; amending s. 99.063, F.S.; adjusting the date to designate a Lieutenant Governor running mate, to conform; amending ss. 99.103, 100.061, 100.081, 100.111, 100.141, 101.252, 101.62, 102.168, 103.021, 103.022, 103.091, 105.031, 105.041, 105.051, 106.07, 106.08, 106.29, F.S.; revising references, to conform to the elimination of the second primary election; amending s. 236.25, F.S.; allowing certain school districts to levy, by referendum, additional district school taxes; providing limitations on the uses of the resulting revenues; amending s. 236.31, F.S.; providing for millage elections pursuant to s. 236.25, F.S.; amending s. 236.32, F.S.; revising the procedures for conducting school district millage elections; amending s. 106.141, F.S.; increasing the amount that may be transferred to an office account; amending s. 106.15, F.S.; expanding prohibition against candidates using state employees' services during working hours to include all government employees; amending s. 97.041, F.S.; providing for automatic restoration of former felons' right to vote following completion and satisfaction of sentence of incarceration and community supervision; providing conditions on such automatic restoration; amending ss. 97.052, 97.053, F.S., to conform; providing an appropriation for the design of a statewide voter registration database; providing requirements for the database; repealing s. 98.0975, F.S., relating to the central voter file maintained by the Division of Elections; providing an appropriation for voter education and pollworker training; providing for the appropriation from the General Appropriations Act to be used to implement the provisions of the act; providing for study of elections process in multiple time zones; providing effective dates.

**House Amendment 1 (845345)(with title amendment)**—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Subsections (11) through (20) and (22) through (30) of section 97.021, Florida Statutes, are renumbered as subsections (12) through (21) and (24) through (32), respectively, present subsection (21) is renumbered as subsection (22) and amended, and new subsections (11) and (23) are added to said section, to read:

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

(11) "Error in the vote tabulation" means the failure of a vote tabulation system to count a vote for a candidate when the voter's intent is clearly ascertainable.

(22)(24) "Primary election" means an election held preceding the general election for the purpose of nominating a party nominee to be voted for in the general election to fill a national, state, county, or district office. The first primary election is a nomination or elimination election; the second primary is a nominating election only.

(23) "Provisional ballot" means a ballot issued to a voter by the election board at the polling place on election day for one of the following reasons:

(a) The voter's name does not appear on the precinct register and verification of the voter's eligibility cannot be determined.

(b) There is an indication on the precinct register that the voter has requested an absentee ballot and there is no indication whether the voter has returned the absentee ballot.

Section 2. Section 100.061, Florida Statutes, is amended to read:

100.061 First Primary election.—In each year in which a general election is held, a first primary election for nomination of candidates of political parties shall be held on the second Tuesday in September 9 weeks prior to the general election. The Each candidate receiving the highest number a majority of the votes cast in each contest in the first primary election shall be declared nominated for such office. If two or more persons receive an equal and highest number of votes for the same office, such persons shall draw lots to determine who shall receive the nomination. A second primary election shall be held as provided by s. 100.091 in every contest in which a candidate does not receive a majority.

Section 3. Sections 100.091 and 100.096, Florida Statutes, are repealed.

Section 4. Section 10.1008, Florida Statutes, is amended to read:

10.1008 Applicability.—This joint resolution applies with respect to the qualification, nomination, and election of members of the Legislature in the *primary primaries* and general *elections* election to be held in 1992 and thereafter.

Section 5. Subsection (1) of section 97.055, Florida Statutes, is amended to read:

97.055 Registration books; when closed for an election.—

(1) The registration books must be closed on the 29th day before each election and must remain closed until after that election. If an election is called and there are fewer than 29 days before that election, the registration books must be closed immediately. When the registration books are closed for an election, voter registration and party changes must be accepted but only for the purpose of subsequent elections. ~~However, party changes received between the book-closing date of the first primary election and the date of the second primary election are not effective until after the second primary election.~~

Section 6. Subsection (3) of section 97.071, Florida Statutes, is amended to read:

97.071 Registration identification card.—

(3) In the case of a change of name, address, or party affiliation, the supervisor must issue the voter a new registration identification card. ~~However, a registration identification card indicating a party affiliation change made between the book-closing date for the first primary election and the date of the second primary election may not be issued until after the second primary election.~~

Section 7. Subsection (3) of section 97.1031, Florida Statutes, is amended to read:

97.1031 Notice of change of residence within the same county, change of name, or change of party.—

(3) When an elector seeks to change party affiliation, the elector must provide a signed, written notification of such intent to the supervisor and obtain a registration identification card reflecting the new party affiliation, ~~subject to the issuance restriction in s. 97.071(3).~~

Section 8. Subsection (1) of section 98.081, Florida Statutes, is amended to read:

98.081 Names removed from registration books; restrictions on re-registering; recordkeeping; restoration of erroneously or illegally removed names.—

(1) Any person who requested that his or her name be removed from the registration books between the book-closing date of the *first primary election* and the date of the *subsequent general election* ~~second primary~~ may not register in a different political party *during the period until after the date of the second primary election and before the date of the subsequent general election.*

Section 9. Subsections (1), (2), and (8) of section 99.061, Florida Statutes, are amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(1) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a federal, state, or multicounty district office, other than election to a judicial office as defined in chapter 105 or the office of school board member, shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the Department of State, or qualify by the alternative method with the Department of State, at any time after noon of the 1st day for qualifying, which shall be as follows: the 120th day prior to the *first primary election*, but not later than noon of the 116th day prior to the date of the *first primary election*, for persons seeking to qualify for nomination or election to federal office; and noon of the 50th day prior to the *first primary election*, but not later than noon of the 46th day prior to the date of the *first primary election*, for persons seeking to qualify for nomination or election to a state or multicounty district office.

(2) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a county office, or district or special district office not covered by subsection (1), shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the supervisor of elections of the county, or shall qualify by the alternative method with the supervisor of elections, at any time after noon of the 1st day for qualifying, which shall be the 50th day prior to the *first primary election* or special district election, but not later than noon of the 46th day prior to the date of the *first primary election* or special district election. ~~When~~ ~~However~~, if a special district election is held at the same time as the *second primary* or general election, qualifying shall *also* be the 50th day prior to the *first primary election*, but not later than noon of the 46th day prior to the date of the *first primary election*. Within 30 days after the closing of qualifying time, the supervisor of elections shall remit to the secretary of the state executive committee of the political party to which the candidate belongs the amount of the filing fee, two-thirds of which shall be used to promote the candidacy of candidates for county offices and the candidacy of members of the Legislature.

(8) Notwithstanding the qualifying period prescribed by this section, in each year in which the Legislature apportions the state, the qualifying period for persons seeking to qualify for nomination or election to federal office shall be between noon of the 57th day prior to the *first primary election*, but not later than noon of the 53rd day prior to the *first primary election*.

Section 10. Subsections (1), (2), and (4) of section 99.063, Florida Statutes, are amended to read:

99.063 Candidates for Governor and Lieutenant Governor.—

(1) No later than 5 p.m. of the *9th 6th* day following the *second* primary election, each candidate for Governor shall designate a Lieutenant Governor as a running mate. Such designation must be made in writing to the Department of State.

(2) No later than 5 p.m. of the *9th 6th* day following the *second* primary election, each designated candidate for Lieutenant Governor shall file with the Department of State:

(a) The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought; and the signature of the candidate, duly acknowledged.

(b) The loyalty oath required by s. 876.05, signed by the candidate and duly acknowledged.

(c) If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

(d) The full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution.

(4) In order to have the name of the candidate for Lieutenant Governor printed on the *first or second* primary election ballot, a candidate for Governor participating in the primary must designate the candidate for Lieutenant Governor, and the designated candidate must qualify no later than the end of the qualifying period specified in s. 99.061. If the candidate for Lieutenant Governor has not been designated and has not qualified by the end of the qualifying period specified in s. 99.061, the phrase "Not Yet Designated" must be included in lieu of the candidate's name on the primary election *ballot ballots and on advance absentee ballots for the general election.*

Section 11. Subsection (1) of section 99.095, Florida Statutes, is amended to read:

99.095 Alternative method of qualifying.—

(1) A person seeking to qualify for nomination to any office may qualify to have his or her name placed on the ballot for the *first* primary election by means of the petitioning process prescribed in this section. A person qualifying by this alternative method shall not be required to pay the qualifying fee or party assessment required by this chapter. A person using this petitioning process shall file an oath with the officer before whom the candidate would qualify for the office stating that he or she intends to qualify by this alternative method for the office sought.

If the person is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate must indicate in his or her oath for which group or district office he or she is running. The oath shall be filed at any time after the first Tuesday after the first Monday in January of the year in which the first primary election is held, but prior to the 21st day preceding the first day of the qualifying period for the office sought. The Department of State shall prescribe the form to be used in administering and filing such oath. No signatures shall be obtained by a candidate on any nominating petition until the candidate has filed the oath required in this section. If the person is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election and the petition does not indicate the group or district office for which the person is running, the signatures obtained on such petition will not be counted.

Section 12. Section 99.103, Florida Statutes, is amended to read:

99.103 Department of State to remit part of filing fees and party assessments of candidates to state executive committee.—

(1) If more than three-fourths of the full authorized membership of the state executive committee of any party was elected at the last previous election for such members and if such party is declared by the Department of State to have recorded on the registration books of the counties, as of the first Tuesday after the first Monday in January prior to the first primary election in general election years, 5 percent of the total registration of such counties when added together, such committee shall receive, for the purpose of meeting its expenses, all filing fees collected by the Department of State from its candidates less an amount equal to 15 percent of the filing fees, which amount the Department of State shall deposit in the General Revenue Fund of the state.

(2) Not later than 20 days after the close of qualifying in even-numbered years, the Department of State shall remit 95 percent of all filing fees, less the amount deposited in general revenue pursuant to subsection (1), or party assessments that may have been collected by the department to the respective state executive committees of the parties complying with subsection (1). Party assessments collected by the Department of State shall be remitted to the appropriate state executive committee, irrespective of other requirements of this section, provided such committee is duly organized under the provisions of chapter 103. The remainder of filing fees or party assessments collected by the Department of State shall be remitted to the appropriate state executive committees not later than the date of the first primary election.

Section 13. Subsection (2) of section 100.071, Florida Statutes, is amended to read:

100.071 Grouping of candidates on primary election ballot ballots.—

(2) Each nominee of a political party chosen in the primary election primaries shall appear on the general election ballot in the same numbered group or district as on the primary election ballot.

Section 14. Section 100.081, Florida Statutes, is amended to read:

100.081 ~~Conducting primary elections~~; Nomination of county commissioners at primary election.—The primary election elections shall provide for the nomination of county commissioners by the qualified electors of such county at the time and place set for voting on other county officers.

Section 15. Paragraph (c) of subsection (1), subsection (3), paragraph (a) of subsection (4), and subsection (5) of section 100.111, Florida Statutes, are amended to read:

100.111 Filling vacancy.—

(1)

(c) If such a vacancy occurs prior to the first primary election but on or after the first day set by law for qualifying, the Secretary of State shall set dates for qualifying for the unexpired portion of the term of such office. Any person seeking nomination or election to the unexpired portion of the term shall qualify within the time set by the Secretary of State. If time does not permit party nominations to be made in conjunction with the first and second primary election elections, the Governor may call a special primary election, and, if necessary, a second special primary election, to select party nominees for the unexpired portion of such term.

(3) Whenever there is a vacancy for which a special election is required pursuant to s. 100.101(1)-(4), the Governor, after consultation with the Secretary of State, shall fix the date of a special first primary election, ~~a special second primary election~~, and a special election. Nominees of political parties other than minor political parties shall be chosen under the primary laws of this state in the special primary election elections to become candidates in the special election. Prior to setting the special election dates, the Governor shall consider any upcoming elections in the jurisdiction where the special election will be held. The dates fixed by the Governor shall be specific days certain and shall not be established by the happening of a condition or stated in the alternative. The dates fixed shall provide a minimum of 2 weeks between each election. In the event a vacancy occurs in the office of state senator or member of the House of Representatives when the Legislature is in regular legislative session, the minimum times prescribed by this subsection may be waived upon concurrence of the Governor, the Speaker of the House of Representatives, and the President of the Senate. If a vacancy occurs in the office of state senator and no session of the Legislature is scheduled to be held prior to the next general election, the Governor may fix the dates for the any special primary election and for the special election to coincide with the dates of the first and second primary election and the general election. If a vacancy in office occurs in any district in the state Senate or House of Representatives or in any congressional district, and no session of the Legislature, or session of Congress if the vacancy is in a congressional district, is scheduled to be held during the unexpired portion of the term, the Governor is not required to call a special election to fill such vacancy.

(a) The dates for candidates to qualify in such special election or special primary election shall be fixed by the Department of State, and candidates shall qualify not later than noon of the last day so fixed. The dates fixed for qualifying shall allow a minimum of 14 days between the last day of qualifying and the special first primary election.

(b) The filing of campaign expense statements by candidates in such special primary election elections or special election primaries and by committees making contributions or expenditures to influence the results of such special primary election primaries or special election elections shall be not later than such dates as shall be fixed by the Department of State, and in fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations.

(c) The dates for a candidate to qualify by the alternative method in such special primary election or special election shall be fixed by the Department of State. In fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations. Any candidate seeking to qualify by the alternative method in a special primary election shall obtain 25 percent of the signatures required by s. 99.095, s. 99.0955, or s. 99.096, as applicable.

(d) The qualifying fees and party assessments of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that office. The party assessment shall be paid to the appropriate executive committee of the political party to which the candidate belongs.

(e) Each county canvassing board shall make as speedy a return of the results result of such special primary election elections and special election primaries as time will permit, and the Elections Canvassing Commission likewise shall make as speedy a canvass and declaration of the nominees as time will permit.

(4)(a) In the event that death, resignation, withdrawal, removal, or any other cause or event should cause a party to have a vacancy in nomination which leaves no candidate for an office from such party, the Governor shall, after conferring with the Secretary of State, call a special primary election and, if necessary, a second special primary election to select for such office a nominee of such political party. The dates on which candidates may qualify for such special primary election shall be fixed by the Department of State, and the candidates shall qualify no later than noon of the last day so fixed. The filing of campaign expense statements by candidates in a special primary election primaries shall not be later than such dates as shall be fixed by the Department of State. In fixing such dates, the Department of State shall take into consideration and be governed by the practical time limitations. The qualifying fees and party assessment of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that

office. Each county canvassing board shall make as speedy a return of the results of such *special primary election* primaries as time will permit, and the Elections Canvassing Commission shall likewise make as speedy a canvass and declaration of the nominees as time will permit.

(5) In the event of unforeseeable circumstances not contemplated in these general election laws concerning the calling and holding of a special primary *election* elections and a special *election* elections resulting from court order or other unpredictable circumstances, the Department of State shall have the authority to provide for the conduct of orderly elections.

Section 16. Subsection (2) of section 100.141, Florida Statutes, is amended to read:

100.141 Notice of special election to fill any vacancy in office or nomination.—

(2) The Department of State shall prepare a notice stating what offices and vacancies are to be filled in the special election, the *dates* date set for the *each* special primary election and the special election, the dates fixed for qualifying for office, the dates fixed for qualifying by the alternative method, and the dates fixed for filing campaign expense statements.

Section 17. Subsection (1) of section 101.251, Florida Statutes, is amended to read:

101.251 Information which supervisor of elections must print on ballots.—

(1) The supervisor of elections of each county shall print, on the general election ballots to be used in such county, the names of candidates nominated by primary election or special primary *election* elections or selected by the appropriate executive committee of any political party.

Section 18. Subsection (2) of section 101.252, Florida Statutes, is amended to read:

101.252 Candidates entitled to have names printed on certain ballots; exception.—

(2) Any candidate for party executive committee member who has qualified as prescribed by law is entitled to have his or her name printed on the first primary *election* ballot. However, when there is only one candidate of any political party qualified for such an office, the name of the candidate shall not be printed on the first primary *election* ballot, and such candidate shall be declared elected to the state or county executive committee.

Section 19. Paragraph (a) of subsection (4) and subsection (7) of section 101.62, Florida Statutes, are amended to read:

101.62 Request for absentee ballots.—

(4)(a) To each absent qualified elector overseas who has requested an absentee ballot, the supervisor of elections shall, not fewer than 35 days before the first primary election *and not fewer than 45 days before the general election*, mail an absentee ballot. ~~Not fewer than 45 days before the second primary and general election, the supervisor of elections shall mail an advance absentee ballot to those persons requesting ballots for such elections. The advance absentee ballot for the second primary shall be the same as the first primary absentee ballot as to the names of candidates, except that for any offices where there are only two candidates, those offices and all political party executive committee offices shall be omitted. Except as provided in s. 99.063(4), the advance absentee ballot for the general election shall be as specified in s. 101.151, except that in the case of candidates of political parties where nominations were not made in the first primary, the names of the candidates placing first and second in the first primary election shall be printed on the advance absentee ballot. The advance absentee ballot or advance absentee ballot information booklet shall be of a different color for each election and also a different color from the absentee ballots for the first primary, second primary, and general election. The supervisor shall mail an advance absentee ballot for the second primary and general election to each qualified absent elector for whom a request is received until the absentee ballots are printed. The supervisor shall enclose with the advance second primary absentee ballot and advance general election absentee ballot an explanation stating that the absentee ballot for~~

~~the election will be mailed as soon as it is printed; and, if both the advance absentee ballot and the absentee ballot for the election are returned in time to be counted, only the absentee ballot will be counted.~~

(7)(a) For the purposes of this section, “absent qualified elector overseas” means:

(a)1. Members of the Armed Forces while in the active service who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia;

(b)2. Members of the Merchant Marine of the United States who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia; and

(c)3. Other citizens of the United States who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia,

who are qualified and registered as provided by law.

(8)(b) Notwithstanding any other provision of law to the contrary, there shall appear on the ballots sent to absent qualified electors overseas, in addition to the names of the candidates for each office, the political party affiliation of each candidate for each office, other than a nonpartisan office.

~~(c) With respect to marked ballots mailed by absent qualified electors overseas, only those ballots mailed with an APO, FPO, or foreign postmark shall be considered valid.~~

Section 20. Subsection (3) and paragraph (b) of subsection (4) of section 103.021, Florida Statutes, are amended to read:

103.021 Nomination for presidential electors.—Candidates for presidential electors shall be nominated in the following manner:

(3) Candidates for President and Vice President with no party affiliation may have their names printed on the general election ballots if a petition is signed by 1 percent of the registered electors of this state, as shown by the compilation by the Department of State for the last preceding general election. A separate petition from each county for which signatures are solicited shall be submitted to the supervisor of elections of the respective county no later than July 15 of each presidential election year. The supervisor shall check the names and, on or before the date of the first primary *election*, shall certify the number shown as registered electors of the county. The supervisor shall be paid by the person requesting the certification the cost of checking the petitions as prescribed in s. 99.097. The supervisor shall then forward the certificate to the Department of State which shall determine whether or not the percentage factor required in this section has been met. When the percentage factor required in this section has been met, the Department of State shall order the names of the candidates for whom the petition was circulated to be included on the ballot and shall permit the required number of persons to be certified as electors in the same manner as party candidates.

(4)

(b) A minor party that is not affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States may have the names of its candidates for President and Vice President printed on the general election ballot if a petition is signed by 1 percent of the registered electors of this state, as shown by the compilation by the Department of State for the preceding general election. A separate petition from each county for which signatures are solicited shall be submitted to the supervisors of elections of the respective county no later than July 15 of each presidential election year. The supervisor shall check the names and, on or before the date of the first primary *election*, shall certify the number shown as registered electors of the county. The supervisor shall be paid by the person requesting the certification the cost of checking the petitions as prescribed in s. 99.097. The supervisor shall then forward the certificate to the Department of State, which shall determine whether or not the percentage factor required in this section has been met. When the percentage factor required in this section has been met, the Department of State shall order the names of the candidates for whom the petition was

circulated to be included on the ballot and shall permit the required number of persons to be certified as electors in the same manner as other party candidates.

Section 21. Section 103.022, Florida Statutes, is amended to read:

103.022 Write-in candidates for President and Vice President.—Persons seeking to qualify for election as write-in candidates for President and Vice President of the United States may have a blank space provided on the general election ballot for their names to be written in by filing an oath with the Department of State at any time after the 57th day, but before noon of the 49th day, prior to the date of the ~~first~~ primary election in the year in which a presidential election is held. The Department of State shall prescribe the form to be used in administering the oath. The candidates shall file with the department a certificate naming the required number of persons to serve as electors. Such write-in candidates shall not be entitled to have their names on the ballot.

Section 22. Subsection (4) of section 103.091, Florida Statutes, is amended to read:

103.091 Political parties.—

(4) Any political party other than a minor political party may by rule provide for the membership of its state or county executive committee to be elected for 4-year terms at the ~~first~~ primary election in each year a presidential election is held. The terms shall commence on the first day of the month following each presidential general election; but the names of candidates for political party offices shall not be placed on the ballot at any other election. The results of such election shall be determined by a plurality of the votes cast. In such event, electors seeking to qualify for such office shall do so with the Department of State or supervisor of elections not earlier than noon of the 57th day, or later than noon of the 53rd day, preceding the ~~first~~ primary election. The outgoing chair of each county executive committee shall, within 30 days after the committee members take office, hold an organizational meeting of all newly elected members for the purpose of electing officers. The chair of each state executive committee shall, within 60 days after the committee members take office, hold an organizational meeting of all newly elected members for the purpose of electing officers.

Section 23. Subsection (1) of section 105.031, Florida Statutes, is amended to read:

105.031 Qualification; filing fee; candidate's oath; items required to be filed.—

(1) TIME OF QUALIFYING.—Except for candidates for judicial office, nonpartisan candidates for multicounty office shall qualify with the Division of Elections of the Department of State and nonpartisan candidates for countywide or less than countywide office shall qualify with the supervisor of elections. Candidates for judicial office other than the office of county court judge shall qualify with the Division of Elections of the Department of State, and candidates for the office of county court judge shall qualify with the supervisor of elections of the county. Candidates shall qualify no earlier than noon of the 50th day, and no later than noon of the 46th day, before the ~~first~~ primary election. Filing shall be on forms provided for that purpose by the Division of Elections and furnished by the appropriate qualifying officer. Any person seeking to qualify by the alternative method, as set forth in s. 105.035, if the person has submitted the necessary petitions by the required deadline and is notified after the fifth day prior to the last day for qualifying that the required number of signatures has been obtained, shall be entitled to subscribe to the candidate's oath and file the qualifying papers at any time within 5 days from the date he or she is notified that the necessary number of signatures has been obtained. Any person other than a write-in candidate who qualifies within the time prescribed in this subsection shall be entitled to have his or her name printed on the ballot.

Section 24. Subsection (1) and paragraph (b) of subsection (2) of section 105.041, Florida Statutes, are amended to read:

105.041 Form of ballot.—

(1) BALLOTS.—The names of candidates for judicial office and candidates for the office of school board member which appear on the ballot at the ~~first~~ primary election shall either be grouped together on a separate portion of the ballot or on a separate ballot. The names of candidates for election to judicial office and candidates for the office of school board

member which appear on the ballot at the general election and the names of justices and judges seeking retention to office shall be grouped together on a separate portion of the general election ballot.

(2) LISTING OF CANDIDATES.—

(b)1. The names of candidates for the office of circuit judge shall be listed on the ~~first~~ primary *election* ballot in the order determined by lot conducted by the director of the Division of Elections of the Department of State after the close of the qualifying period.

2. Candidates who have secured a position on the general election ballot, after having survived elimination at the ~~first~~ primary *election*, shall have their names listed in the same order as on the ~~first~~ primary *election* ballot, notwithstanding the elimination of any intervening names as a result of the ~~first~~ primary *election*.

Section 25. Paragraph (b) of subsection (1) of section 105.051, Florida Statutes, is amended to read:

105.051 Determination of election or retention to office.—

(1) ELECTION.—In circuits and counties holding elections:

(b) If two or more candidates, neither of whom is a write-in candidate, qualify for such an office, the names of those candidates shall be placed on the ballot at the ~~first~~ primary election. If any candidate for such office receives a majority of the votes cast for such office in the ~~first~~ primary election, the name of the candidate who receives such majority shall not appear on any other ballot unless a write-in candidate has qualified for such office. An unopposed candidate shall be deemed to have voted for himself or herself at the general election. If no candidate for such office receives a majority of the votes cast for such office in the ~~first~~ primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot. If more than two candidates receive an equal and highest number of votes, the name of each candidate receiving an equal and highest number of votes shall be placed on the general election ballot. In any contest in which there is a tie for second place and the candidate placing first did not receive a majority of the votes cast for such office, the name of the candidate placing first and the name of each candidate tying for second shall be placed on the general election ballot.

Section 26. Paragraphs (a) and (b) of subsection (1) of section 106.07, Florida Statutes, are amended to read:

106.07 Reports; certification and filing.—

(1) Each campaign treasurer designated by a candidate or political committee pursuant to s. 106.021 shall file regular reports of all contributions received, and all expenditures made, by or on behalf of such candidate or political committee. Reports shall be filed on the 10th day following the end of each calendar quarter from the time the campaign treasurer is appointed, except that, if the 10th day following the end of a calendar quarter occurs on a Saturday, Sunday, or legal holiday, the report shall be filed on the next following day which is not a Saturday, Sunday, or legal holiday. Quarterly reports shall include all contributions received and expenditures made during the calendar quarter which have not otherwise been reported pursuant to this section.

(a) Except as provided in paragraph (b), following the last day of qualifying for office, the reports shall be filed on the 32nd, 18th, and 4th days immediately preceding the ~~first~~ primary *election* and on the 18th and 4th days immediately preceding the ~~second primary~~ and general election, for a candidate who is opposed in seeking nomination or election to any office, for a political committee, or for a committee of continuous existence.

(b) Following the last day of qualifying for office, any statewide candidate who has requested to receive contributions from the Election Campaign Financing Trust Fund or any statewide candidate in a race with a candidate who has requested to receive contributions from the trust fund shall file reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the ~~first~~ primary and general elections, ~~and on the 4th, 11th, 18th, and 25th days prior to the second primary.~~

Section 27. Subsection (1) of section 106.08, Florida Statutes, is amended to read:



## 106.08 Contributions; limitations on.—

(1)(a) Except for political parties, no person, political committee, or committee of continuous existence may, in any election, make contributions in excess of \$1,000 to any candidate for election to or retention in office or to any political committee supporting or opposing one or more candidates. Candidates for the offices of Governor and Lieutenant Governor on the same ticket are considered a single candidate for the purpose of this section.

(b)1. The contribution limits provided in this subsection do not apply to contributions made by a state or county executive committee of a political party regulated by chapter 103 or to amounts contributed by a candidate to his or her own campaign.

2. Notwithstanding the limits provided in this subsection, an emancipated child under the age of 18 years of age may not make a contribution in excess of \$100 to any candidate or to any political committee supporting one or more candidates.

(c) The contribution limits of this subsection apply to each election. For purposes of this subsection, the first primary election, ~~second primary~~, and the general election are separate elections so long as the candidate is not an unopposed candidate as defined in s. 106.011(15). However, for the purpose of contribution limits with respect to candidates for retention as a justice or judge, there is only one election, which is the general election. ~~With respect to candidates in a circuit holding an election for circuit judge or in a county holding an election for county court judge, there are only two elections, which are the first primary election and general election.~~

Section 28. Subsection (1) of section 106.29, Florida Statutes, is amended to read:

## 106.29 Reports by political parties; restrictions on contributions and expenditures; penalties.—

(1) The state executive committee and each county executive committee of each political party regulated by chapter 103 shall file regular reports of all contributions received and all expenditures made by such committee. Such reports shall contain the same information as do reports required of candidates by s. 106.07 and shall be filed on the 10th day following the end of each calendar quarter, except that, during the period from the last day for candidate qualifying until the general election, such reports shall be filed on the Friday immediately preceding both the first primary election, ~~the second primary election~~, and the general election. Each state executive committee shall file the original and one copy of its reports with the Division of Elections. Each county executive committee shall file its reports with the supervisor of elections in the county in which such committee exists. Any state or county executive committee failing to file a report on the designated due date shall be subject to a fine as provided in subsection (3). No separate fine shall be assessed for failure to file a copy of any report required by this section.

Section 29. Section 98.0977, Florida Statutes, is created to read:

## 98.0977 Statewide voter registration database.—

(1) The department shall develop a statewide voter registration database, which shall contain voter registration information from every supervisor of elections in this state and shall be accessible through an Internet web site. Accordingly, the department may contract for the analysis, design, development, operation, and maintenance of a statewide, on-line voter registration database and associated Internet web site. The database system adopted must provide functionality for ensuring that the database is updated on a daily basis to determine if a registered voter is ineligible to vote for any of the following reasons, including, but not limited to:

- (a) The voter is deceased;
- (b) The voter has been convicted of a felony and has not had his or her civil rights restored; or
- (c) The voter has been adjudicated mentally incompetent and his or her mental capacity with respect to voting has not been restored.

The database shall also allow for duplicate voter registrations to be identified.

(2) In administering the database, each supervisor of elections shall compare registration information provided by a voter with information held by the Department of Law Enforcement, the Board of Executive Clemency, and the Office of Vital Statistics. If the supervisor of elections finds information that suggests that a voter is ineligible to register to vote, the supervisor of elections shall notify the voter by certified United States mail. The notification shall contain a statement as to the reason for the voter's potential ineligibility to register to vote and shall request information from the voter on forms provided by the supervisor of elections in order to make a final determination on the voter's eligibility. After reviewing the information requested by the supervisor of elections and provided by the voter, if the supervisor of elections determines that the voter is not eligible to vote under the laws of this state, the supervisor of elections shall notify the voter by certified United States mail that he or she has been found ineligible to register to vote in this state, shall state the reason for the ineligibility, and shall inform the voter that he or she will be removed from the voter registration rolls.

(3) To the maximum extent feasible, state and local governmental agencies shall facilitate provision of information and access to data to the department and the supervisors of elections in order to compare information in the statewide voter registration database with available information in other computer databases, including, but not limited to, databases that contain reliable criminal records and records of deceased persons. State and local governmental agencies that provide such data shall do so without charge if the direct cost incurred by those agencies is not significant.

(4) The Division of Elections shall provide written quarterly progress reports on each phase of development of the voter registration database to the President of the Senate and the Speaker of the House of Representatives beginning July 1, 2001, and continuing until the database is fully implemented.

(5) The duties of the supervisors of elections under this section shall be considered part of their regular registration list maintenance duties under this chapter, and any supervisor of elections who willfully refuses or willfully neglects to perform his or her duties under this section shall be in violation of s. 104.051(2).

Section 30. (1) The statewide voter registration database, created pursuant to s. 98.0977, Florida Statutes, by this act, shall be operational by June 1, 2002.

(2) Funding for the analysis, design, development, operation, and maintenance of the statewide voter registration database pursuant to s. 98.0977(1), Florida Statutes, shall be as provided for in the 2001-2002 General Appropriations Act.

Section 31. Section 98.0979, Florida Statutes, is created to read:

## 98.0979 Statewide voter registration database open to inspection; copies.—

(1)(a) The voter registration information of the state constitutes public records. Any citizen shall be allowed to examine the voter registration records, but may not make any copies or extract therefrom except as provided by this section.

(b) Within 15 days after a request for voter registration information, the division or supervisor of elections shall furnish any requested information, excluding only a voter's signature, social security number, and such other information that is by statute specifically made confidential or is exempt from public records requirements.

(c) Actual costs of duplication of information authorized by this section for release to the public shall be charged in accordance with the provisions of s. 119.07.

(2) The information provided by the division or supervisor of elections pursuant to this section shall be furnished only to:

- (a) Municipalities;
- (b) Other governmental agencies;
- (c) Political candidates, for the purpose of furthering their candidacies;

(d) Registered political committees, certified committees of continuous existence, and political parties or officials thereof, for political purposes only; and

(e) Incumbent officeholders, for the purpose of reporting to their constituents.

(3) Such information shall not be used for commercial purposes. No person to whom a list of registered voters is made available pursuant to this section, and no person who acquires such a list, shall use any information contained therein for purposes which are not related to elections, political or governmental activities, voter registration, or law enforcement.

(4) Any person who acquires a list of registered voters from the division or supervisor of elections shall take and subscribe to an oath which shall be in substantially the following form:

I hereby swear (or affirm) that I am a person authorized by s. 98.0979, Florida Statutes, to acquire information on the registered voters of Florida; that the information acquired will be used only for the purposes prescribed in that section and for no other purpose; and that I will not permit the use or copying of such information by persons not authorized by the Election Code of the State of Florida.

\_\_\_\_\_  
(Signature of person acquiring list)

Sworn and subscribed before me this . . . . day of . . . . ., \_\_\_\_ (year) .  
\_\_\_\_\_  
(Name of person providing list)

Section 32. Section 101.048, Florida Statutes, is created to read:

101.048 Provisional ballots.—

(1) At all elections, a voter claiming to be properly registered in the county and eligible to vote at the precinct in the election, but whose eligibility cannot be determined, shall be entitled to vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and thereafter sealed in a provisional ballot envelope. The provisional ballot shall be deposited in a ballot box. All provisional ballots shall remain sealed in their envelopes for return to the supervisor of elections.

(2)(a) The county canvassing board shall examine each provisional ballot to determine if the person voting that ballot was entitled to vote in the election and that the person had not already cast a ballot in the election.

(b)1. If it is determined that the person was registered and entitled to vote, the canvassing board shall compare the signature on the provisional ballot envelope with the signature on the voter's registration and, if it matches, shall count the ballot.

2. If it is determined that the person voting the provisional ballot was not registered or entitled to vote, the provisional ballot shall not be counted and the ballot shall remain in the envelope containing the Provisional Ballot Voter's Certificate and the envelope marked "Rejected as Illegal."

(3) The Provisional Ballot Voter's Certificate shall be in substantially the following form:

STATE OF FLORIDA  
COUNTY OF . . . .

I do solemnly swear (or affirm) that my name is . . . . ; that my date of birth is . . . . ; that I am registered to vote and at the time I registered I resided at . . . . , in the municipality of . . . . , in . . . . County, Florida; that I am a qualified voter of the county and have not voted in this election.

\_\_\_\_\_  
(Signature of Voter)

\_\_\_\_\_  
(Current Address)

Sworn to and subscribed before me this . . . . day of . . . . ., \_\_\_\_ (year) .  
\_\_\_\_\_  
(Clerk or Inspector of Election)

Additional information may be provided to further assist the supervisor of elections in determining eligibility. If known, please provide the place and date that you registered to vote.

(4) In counties where the voting system does not utilize a paper ballot, the supervisor of elections shall provide the appropriate provisional ballots to each polling place.

Section 33. Subsections (2) and (3) of section 101.045, Florida Statutes, are amended to read:

101.045 Electors must be registered in precinct; provisions for residence or name change.—

(2)(a) An elector who moves from the precinct within the county in which the elector is registered may be permitted to vote in the precinct to which he or she has moved his or her legal residence, provided such elector completes an affirmation in substantially the following form:

#### Change of Legal Residence of Registered Voter

Under penalties for false swearing, I, \_\_\_\_ (Name of voter) \_\_\_\_, swear (or affirm) that the former address of my legal residence was \_\_\_\_ (Address of legal residence) \_\_\_\_ in the municipality of . . . . , in . . . . County, Florida, and I was registered to vote in the . . . . precinct of . . . . County, Florida; that I have not voted in the precinct of my former registration in this election; that I now reside at \_\_\_\_ (Address of legal residence) \_\_\_\_ in the Municipality of . . . . , in . . . . County, Florida, and am therefore eligible to vote in the . . . . precinct of . . . . County, Florida; and I further swear (or affirm) that I am otherwise legally registered and entitled to vote.

\_\_\_\_\_  
(Signature of voter whose address of legal residence has changed)

(b) An elector whose name changes because of marriage or other legal process may be permitted to vote, provided such elector completes an affirmation in substantially the following form:

#### Change of Name of Registered Voter

Under penalties for false swearing, I, \_\_\_\_ (New name of voter) \_\_\_\_, swear (or affirm) that my name has been changed because of marriage or other legal process. My former name and address of legal residence appear on the registration books of precinct . . . . as follows:

Name . . . . .

Address . . . . .

Municipality . . . . .

County . . . . .

Florida, Zip . . . . .

My present name and address of legal residence are as follows:

Name . . . . .

Address . . . . .

Municipality . . . . .

County . . . . .

Florida, Zip . . . . .

and I further swear (or affirm) that I am otherwise legally registered and entitled to vote.

\_\_\_\_\_  
(Signature of voter whose name has changed)

(c) Such affirmation, when completed and presented at the precinct in which such elector is entitled to vote, and upon verification of the elector's registration, shall entitle such elector to vote as provided in this subsection. If the elector's eligibility to vote cannot be determined, he or she shall be entitled to vote a provisional ballot subject to the requirements and procedures in s. 101.048. Upon receipt of an affirmation certifying a change in address of legal residence or name, the supervisor shall as soon as practicable make the necessary changes in the registration records of the county to indicate the change in address of legal residence or name of such elector.

(d) Instead of the affirmation contained in paragraph (a) or paragraph (b), an elector may complete a voter registration application that indicates the change of name or change of address of legal residence.

(e) A request for an absentee ballot pursuant to s. 101.62 which indicates that the elector has had a change of address of legal residence from that in the supervisor's records shall be sufficient as the notice to the supervisor of change of address of legal residence required by this section. Upon receipt of such request for an absentee ballot from an elector who has changed his or her address of legal residence, the supervisor shall provide the elector with the proper ballot for the precinct in which the elector then has his or her legal residence.

(3) When an elector's name does not appear on the registration books of the election precinct in which the elector is registered and when the elector cannot present a valid registration identification card, the elector may have his or her name restored if the supervisor is otherwise satisfied that the elector is validly registered, that the elector's name has

been erroneously omitted from the books, and that the elector is entitled to have his or her name restored. The supervisor, if he or she is satisfied as to the elector's previous registration, shall allow such person to vote and shall thereafter issue a duplicate registration identification card.

Section 34. Subsections (1), (2), and (8) of section 101.5614, Florida Statutes, are amended, and subsection (9) is added to said section, to read:

101.5614 Canvass of returns.—

(1)(a) In precincts in which an electronic or electromechanical voting system is used, as soon as the polls are closed, the election board shall secure the voting devices against further voting. The election board shall thereafter open the ballot box in the presence of members of the public desiring to witness the proceedings and count the number of voted ballots, unused ballots, *provisional ballots*, and spoiled ballots to ascertain whether such number corresponds with the number of ballots issued by the supervisor. If there is a difference, this fact shall be reported in writing to the county canvassing board with the reasons therefor if known. The total number of voted ballots shall be entered on the forms provided. The proceedings of the election board at the precinct after the polls have closed shall be open to the public; however, no person except a member of the election board shall touch any ballot or ballot container or interfere with or obstruct the orderly count of the ballots.

(b) In lieu of opening the ballot box at the precinct, the supervisor may direct the election board to keep the ballot box sealed and deliver it to a central or regional counting location. In this case, the election board shall count the stubs removed from the ballots to determine the number of voted ballots.

(2)(a) If the ballots are to be tallied at a central location or at no more than three regional locations, the election board shall place all ballots that have been cast and the unused, void, *provisional*, and defective ballots in the container or containers provided for this purpose, which shall be sealed and delivered forthwith to the central or regional counting location or other designated location by two inspectors who shall not, whenever possible, be of the same political party. The election board shall certify that the ballots were placed in such container or containers and each container was sealed in its presence and under its supervision, and it shall further certify to the number of ballots of each type placed in the container or containers.

(b) If ballots are to be counted at the precincts, such ballots shall be counted pursuant to rules adopted by the Department of State, which rules shall provide safeguards which conform as nearly as practicable to the safeguards provided in the procedures for the counting of votes at a central location.

(8) The return printed by the automatic tabulating equipment, to which has been added the return of write-in, absentee, and manually counted votes and votes from *provisional ballots*, shall constitute the official return of the election. Upon completion of the count, the returns shall be open to the public. A copy of the returns may be posted at the central counting place or at the office of the supervisor of elections in lieu of the posting of returns at individual precincts.

(9) *Any supervisor of elections, deputy supervisor of elections, canvassing board member, election board member, or election employee who releases the results of any election prior to the closing of the polls on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 35. Paragraph (a) of subsection (2) of section 101.68, Florida Statutes, is amended to read:

101.68 Canvassing of absentee ballot.—

(2)(a) The county canvassing board may begin the canvassing of absentee ballots at 7 a.m. on the fourth day before the election, but not later than noon on the day following the election. In addition, for any county using electronic tabulating equipment, the processing of absentee ballots through such tabulating equipment may begin at 7 a.m. on the fourth day before the election ~~upon the opening of the polls on election day~~. However, notwithstanding any such authorization to begin canvassing or otherwise processing absentee ballots early, no result ~~or tabulation of absentee ballots shall be released made~~ until after the closing ~~close~~ of the polls on election day. *Any supervisor of elections, deputy*

*supervisor of elections, canvassing board member, election board member, or election employee who releases the results of a canvassing or processing of absentee ballots prior to the closing of the polls on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 36. Section 101.69, Florida Statutes, is amended to read:

101.69 Voting in person; return of absentee ballot.—The provisions of this code shall not be construed to prohibit any elector from voting in person at the elector's precinct on the day of an election notwithstanding that the elector has requested an absentee ballot for that election. An elector who has received an absentee ballot, but desires to vote in person, shall return the ballot, whether voted or not, to the election board in the elector's precinct. The returned ballot shall be marked "canceled" by the board and placed with other canceled ballots. However, if the elector is unable to return the ballot, the elector may *vote a provisional ballot as provided in s. 101.048* ~~execute an affidavit stating that the absentee ballot has not been voted and the elector may then vote at the precinct.~~

Section 37. Subsection (1) of section 102.111, Florida Statutes, is amended to read:

102.111 Elections Canvassing Commission.—

(1) Immediately after certification of any election by the county canvassing board, the results shall be forwarded to the Department of State concerning the election of any federal or state officer. The *Elections Canvassing Commission shall consist of the Governor and two members of the Cabinet as determined by the Governor, the Secretary of State, and the Director of the Division of Elections shall be the Elections Canvassing Commission.* The Elections Canvassing Commission shall, as soon as the official results are compiled from all counties, certify the returns of the election and determine and declare who has been elected for each office. In the event that *the Governor is recused, or any other member of the commission cannot serve, the Governor shall fill the vacancy following the same procedure for appointment to the commission. If no other Cabinet members are available to serve, the Governor shall choose a registered voter to replace the member* ~~any member of the Elections Canvassing Commission is unavailable to certify the returns of any election, such member shall be replaced by a substitute member of the Cabinet as determined by the Director of the Division of Elections. If the county returns are not received by the Department of State by 5 p.m. of the seventh day following an election, all missing counties shall be ignored, and the results shown by the returns on file shall be certified.~~

Section 38. Section 102.112, Florida Statutes, is amended to read:

102.112 Deadline for submission of county returns to the Department of State; ~~penalties.~~—

(1) The county canvassing board or a majority thereof shall file the county returns for the election of a federal or state officer with the Department of State immediately after certification of the election results.

(2) Returns must be filed by 5 p.m. on the 7th day following the first primary election and by 5 p.m. on the 11th day following the ~~and~~ general election ~~and by 3 p.m. on the 3rd day following the second primary.~~

(3) If the returns are not received by the department by the time specified, such returns ~~shall~~ *may* be ignored and the results on file at that time ~~shall~~ *may* be certified by the department.

(4) *If the returns are not received by the department due to an emergency, as defined in s. 101.732, the Elections Canvassing Commission shall determine the deadline by which the returns must be received.*

~~(2) The department shall fine each board member \$200 for each day such returns are late, the fine to be paid only from the board member's personal funds. Such fines shall be deposited into the Election Campaign Financing Trust Fund, created by s. 106.32.~~

~~(3) Members of the county canvassing board may appeal such fines to the Florida Elections Commission, which shall adopt rules for such appeals.~~

Section 39. Subsection (4) of section 102.141, Florida Statutes, is amended to read:

## 102.141 County canvassing board; duties.—

(4)(a) If the returns for any office reflect that a candidate was defeated or eliminated by one-half of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-half of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-half of a percent or less of the votes cast on such measure, ~~each county canvassing the board responsible for certifying the results of the vote on such race or measure shall order a machine recount of the votes cast with respect to such office or measure. A recount need not be ordered with respect to the returns for any office, however, if the candidate or candidates defeated or eliminated from contention for such office by one-half of a percent or less of the votes cast for such office request in writing that a recount not be made. Each canvassing board responsible for conducting a machine recount shall recount the ballots with the vote tabulation system. On optical scan machines, a machine recount shall mean actually processing each ballot through the vote tabulation system examine the counters on the machines or the tabulation of the ballots cast in each precinct in which the office or issue appeared on the ballot and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the counters of the machines or the tabulation of the ballots cast, the counters of such machines or the tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly.~~

(b) ~~If, after conducting a machine recount under paragraph (a), the returns for any office reflect that a candidate was defeated or eliminated by one-quarter of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-quarter of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-quarter of a percent or less of the votes cast on such measure, each county canvassing board responsible for certifying the results of the vote on such race or measure shall order a manual recount of the votes cast with respect to such office or measure that were not counted by an otherwise properly functioning vote tabulation system. Manual recounts shall be conducted by the county canvassing boards using the procedures described in s. 102.166. Upon completion of its manual recount, each county canvassing board shall certify the returns for the applicable office or measure.~~

Section 40. Section 102.166, Florida Statutes, is amended to read:

## 102.166 Protest of election returns; procedure.—

(1)(a) Any candidate for nomination or election to a federal, state, or multicounty district office, or any elector qualified to vote in the election related to such candidacy, shall have the right to protest the returns of the election as being erroneous by filing with the Elections Canvassing Commission appropriate canvassing board a sworn, written protest.

(b)(2) Such protest shall be filed with the Elections Canvassing Commission ~~canvassing board~~ prior to the time the Elections Canvassing Commission ~~canvassing board~~ certifies the results for the office being protested or within 72 hours ~~5 days~~ after the closing of the polls in that election ~~midnight of the date the election is held, whichever occurs later.~~

(3) ~~Before canvassing the returns of the election, the canvassing board shall:~~

(a) ~~When paper ballots are used, examine the tabulation of the paper ballots cast.~~

(b) ~~When voting machines are used, examine the counters on the machines of nonprinter machines or the printer-pac on printer machines. If there is a discrepancy between the returns and the counters of the machines or the printer-pac, the counters of such machines or the printer-pac shall be presumed correct.~~

(c) Upon receipt of a sworn, written protest, the Elections Canvassing Commission shall direct each county canvassing board within the geographic jurisdiction of the office or ballot measure to ~~When electronic or electromechanical equipment is used, the canvassing board shall examine precinct records and election returns. If there is a clerical error, such error shall be corrected by the county canvassing board. If there is a discrepancy that which could affect the outcome of an election, the Elections Canvassing Commission may direct each county canvassing board to may recount the ballots on the automatic tabulating equipment.~~

(d) ~~1.(4)(a) Upon completion of a machine recount ordered by the Elections Canvassing Commission pursuant to paragraph (c), any candidate for federal, state, or multicounty district office whose name appeared on the ballot or; any political committee that supports or opposes a state-wide or multicounty an issue that which appeared on the ballot, or any political party whose candidates' names appeared on the ballot may file a written request with the Elections Canvassing Commission county canvassing board for a manual recount of the votes cast with respect to such office or measure that were not counted by an otherwise properly functioning vote tabulation system. The written request shall contain a statement of the reason the manual recount is being requested.~~

2.(b) Such request must be filed with the Elections Canvassing Commission ~~canvassing board prior to the time the canvassing board certifies the results for the office being protested or within 72 hours after completion of the machine recount ordered by the Elections Canvassing Commission pursuant to paragraph (c) midnight of the date the election was held, whichever occurs later.~~

3.(c) Based on its evaluation of the validity of the reasons stated in the written request, the Elections Canvassing Commission ~~county canvassing board~~ may authorize a manual recount of those ballots not counted by the voting equipment during the machine recount. If a manual recount is authorized, the Elections Canvassing Commission shall direct each county canvassing board within the geographic jurisdiction of the office or ballot measure to manually recount all ballots not previously counted by an otherwise properly functioning vote tabulation system, using standards for determining voter intent developed and published by the Division of Elections. If a manual recount is authorized, the Elections Canvassing Commission ~~county canvassing board~~ shall make a reasonable effort to notify each candidate whose race is being recounted of the time and place of such recount.

(d) ~~The manual recount must include at least three precincts and at least 1 percent of the total votes cast for such candidate or issue. In the event there are less than three precincts involved in the election, all precincts shall be counted. The person who requested the recount shall choose three precincts to be recounted, and, if other precincts are recounted, the county canvassing board shall select the additional precincts.~~

(5) ~~If the manual recount indicates an error in the vote tabulation which could affect the outcome of the election, the county canvassing board shall:~~

(a) ~~Correct the error and recount the remaining precincts with the vote tabulation system;~~

(b) ~~Request the Department of State to verify the tabulation software; or~~

(c) ~~Manually recount all ballots.~~

(2)(a) Any candidate for nomination or election to a county office, municipal office, or district office not covered by paragraph (1)(a), or any elector qualified to vote in the election related to such candidacy, shall have the right to protest the returns of the election as being erroneous by filing with the appropriate county canvassing board a sworn, written protest.

(b) Such protest shall be filed with the county canvassing board prior to the time the canvassing board certifies the results for the office being protested or within 72 hours after the closing of the polls in that election, whichever occurs later.

(c) Upon receipt of a sworn, written protest, the county canvassing board shall:

1. When paper ballots are used, examine the tabulation of the paper ballots cast.

2. When voting machines are used, examine the counters on the machines of nonprinter machines or the printer-pac on printer machines. If there is a discrepancy between the returns and the counters of the machines or the printer-pac, the counters of such machines or the printer-pac shall be presumed correct.

3. When electronic or electromechanical equipment is used, examine precinct records and election returns. If there is a clerical error, such error

shall be corrected by the county canvassing board. If there is a discrepancy that could affect the outcome of an election, the canvassing board may recount the ballots on the automatic tabulating equipment.

(d)1. Upon completion of a machine recount ordered by a county canvassing board pursuant to subparagraph (c)3., any candidate not covered by paragraph (1)(d) whose name appeared on the ballot or any political committee that supports or opposes an issue not covered by paragraph (1)(d) which appeared on the ballot may file a written request with the county canvassing board for a manual recount of the votes cast with respect to such office or measure that were not counted by an otherwise properly functioning vote tabulation system. The written request shall contain a statement of the reason the manual recount is being requested.

2. Such request must be filed with the canvassing board within 72 hours after the completion of the machine recount ordered pursuant to subparagraph (c)3.

3. Based on its evaluation of the validity of the reasons stated in the written request, the county canvassing board may authorize a manual recount of those ballots not counted by the voting equipment during the machine recount. If a manual recount is authorized, the county canvassing board shall manually recount all ballots not previously counted by an otherwise properly functioning vote tabulation system, using standards for determining voter intent developed and published by the Division of Elections. If a manual recount is authorized, the county canvassing board shall make a reasonable effort to notify each candidate whose race is being recounted of the time and place of such recount.

(3)(6) Any manual recount shall be open to the public.

(4)(7) Procedures for a manual recount are as follows:

(a) The county canvassing board shall appoint as many counting teams of at least two electors as is necessary to manually recount the ballots. A counting team must have, when possible, members of at least two political parties. A candidate involved in the race shall not be a member of the counting team.

(b) If a counting team is unable to determine a voter's intent in casting a ballot, using the standards for determining voter intent developed and published by the Division of Elections, the ballot shall be presented to the county canvassing board for it to determine the voter's intent. If the county canvassing board is unable to determine a voter's intent in casting a ballot using the standards for determining voter intent developed and published by the Division of Elections, the ballot shall not be counted in the official canvass.

(5)(8) If the county canvassing board determines the need to verify the tabulation software, the county canvassing board shall request in writing that the Department of State verify the software.

(6)(9) When the Department of State verifies such software, the department shall:

(a) Compare the software used to tabulate the votes with the software filed with the Department of State pursuant to s. 101.5607; and

(b) Check the election parameters.

(7)(10) The Department of State shall respond to the county canvassing board within 3 working days.

Section 41. Section 102.167, Florida Statutes, is amended to read:

102.167 Form of protest of election returns.—

(1) The form of the "Protest of Election Returns to the Elections Canvassing Commission" shall be as follows:

**PROTEST OF ELECTION RETURNS TO THE  
ELECTIONS CANVASSING COMMISSION**

....., Florida

....., (year)

As provided in Section 102.166(1), Florida Statutes, I, .... of .... County, Florida, believe the election returns from .... in the .... election (year) are erroneous.

I hereby protest the canvass of such returns by the Elections Canvassing Commission, and request that said returns be investigated, examined, checked, and corrected by the Elections Canvassing Commission. The basis for this protest is .....

.....  
.....  
.....  
.....  
.....

Under penalties of perjury, I swear (or affirm) that I have read the foregoing and that the facts alleged are true, to the best of my knowledge and belief.

\_\_\_\_\_  
(Signature of person protesting election returns)

(2) The form of the "Protest of Election Returns to Canvassing Board" shall be as follows:

**PROTEST OF ELECTION RETURNS TO  
CANVASSING BOARD**

....., Florida

....., (year)

As provided in Section 102.166(2)(4), Florida Statutes, I, .... of .... County, Florida, believe the election returns from Precinct No. .... in the .... election (year) are erroneous.

I hereby protest the canvass of such returns by the .... Canvassing Board, and request that said returns be investigated, examined, checked, and corrected by said Canvassing Board. The basis for this protest is .....

.....  
.....  
.....  
.....  
.....

Under penalties of perjury, I swear (or affirm) that I have read the foregoing and that the facts alleged are true, to the best of my knowledge and belief.

\_\_\_\_\_  
(Signature of person protesting election returns)

Section 42. Section 102.168, Florida Statutes, is amended to read:

102.168 Contest of election.—

(1) Except as provided in s. 102.171, the certification of election or nomination of any person to office, ~~or of the result on any question submitted by referendum~~, may be contested in the circuit court by any unsuccessful candidate for such office or nomination thereto ~~and the result on any question submitted by referendum may be contested in the circuit court or by any elector qualified to vote in the election related to such candidacy, or by any taxpayer, respectively.~~

(2) Such contestant shall file a complaint, together with the fees prescribed in chapter 28, with the clerk of the circuit court within 10 days after midnight of the date the last county canvassing board empowered to canvass the returns certifies the results of the election being contested or within 5 days after midnight of the date the last county canvassing board empowered to canvass the returns certifies the results of that particular election following a protest pursuant to s. 102.166(4), whichever occurs later.

(3) The complaint shall set forth the grounds on which the contestant intends to establish his or her right to such office or set aside the result of the election on a submitted referendum. The grounds for contesting an election under this section are:

(a) Misconduct, fraud, or corruption on the part of any election official or any member of the canvassing board sufficient to change or place in doubt the result of the election.

(b) Ineligibility of the successful candidate for the nomination or office in dispute.

(c) Receipt of a number of illegal votes or rejection of a number of legal votes sufficient to change or place in doubt the result of the election.

(d) Proof that any elector, election official, or canvassing board member was given or offered a bribe or reward in money, property, or any other thing of value for the purpose of procuring the successful candidate's nomination or election or determining the result on any question submitted by referendum.

~~(e) Any other cause or allegation which, if sustained, would show that a person other than the successful candidate was the person duly nominated or elected to the office in question or that the outcome of the election on a question submitted by referendum was contrary to the result declared by the canvassing board or election board.~~

(4) The canvassing board or *the Elections Canvassing Commission* election board shall be the proper party defendant, and the successful candidate shall be an indispensable party to any action brought to contest the election or nomination of a candidate.

(5) A statement of the grounds of contest may not be rejected, nor the proceedings dismissed, by the court for any want of form if the grounds of contest provided in the statement are sufficient to clearly inform the defendant of the particular proceeding or cause for which the nomination or election is contested.

(6) A copy of the complaint shall be served upon the defendant and any other person named therein in the same manner as in other civil cases under the laws of this state. Within 10 days after the complaint has been served, the defendant must file an answer admitting or denying the allegations on which the contestant relies or stating that the defendant has no knowledge or information concerning the allegations, which shall be deemed a denial of the allegations, and must state any other defenses, in law or fact, on which the defendant relies. If an answer is not filed within the time prescribed, the defendant may not be granted a hearing in court to assert any claim or objection that is required by this subsection to be stated in an answer.

(7) Any candidate ~~or, qualified elector, or taxpayer~~ presenting such a contest to a circuit judge is entitled to an immediate hearing. However, the court in its discretion may limit the time to be consumed in taking testimony, with a view therein to the circumstances of the matter and to the proximity of any succeeding ~~primary or other~~ election.

~~(8) The circuit judge to whom the contest is presented may fashion such orders as he or she deems necessary to ensure that each allegation in the complaint is investigated, examined, or checked, to prevent or correct any alleged wrong, and to provide any relief appropriate under such circumstances.~~

Section 43. Subsection (5) is added to section 99.096, Florida Statutes, to read:

99.096 Minor party candidates; names on ballot.—

*(5) Notwithstanding any other provision of this section, a minor political party's entire slate of candidates shall be automatically granted ballot access at the general election that immediately follows a statewide or federal election at which any candidate of the minor political party received at least 1 percent of the votes cast statewide, and shall be exempt from the qualifying fee provisions under subsection (2) and the provisions for qualifying by the alternative method under subsection (3), if otherwise qualified for the office sought.*

Section 44. Section 106.31, Florida Statutes, is amended to read:

106.31 Legislative intent.—The Legislature finds that the costs of running an effective campaign for statewide office have reached a level which tends to discourage persons from becoming candidates and to limit the persons who run for such office to those who are independently wealthy, who are supported by political committees representing special interests which are able to generate substantial campaign contributions, or who must appeal to special interest groups for campaign contributions. The Legislature further finds that campaign contributions generated by such political committees are having a disproportionate impact vis-a-vis contributions from unaffiliated individuals, which leads to the misperception of government officials unduly influenced by those special interests to the detriment of the public interest. *Furthermore, it is the intent of the Legislature that the purpose of public campaign financing is to make candidates more responsive to the voters of the State of Florida and as insulated as possible from special interest groups.* The Legislature intends ss. 106.30-106.36 to alleviate these factors, dispel the mis-

perception, and encourage qualified persons to seek statewide elective office who would not, or could not otherwise do so *and to protect the effective competition by a candidate who uses public funding.*

Section 45. Section 106.33, Florida Statutes, is amended to read:

106.33 Election campaign financing; eligibility.—Each candidate for the office of Governor or member of the Cabinet who desires to receive contributions from the Election Campaign Financing Trust Fund shall, upon qualifying for office, file a request for such contributions with the filing officer on forms provided by the Division of Elections. If a candidate requesting contributions from the fund desires to have such funds distributed by electronic fund transfers, the request shall include information necessary to implement that procedure. For the purposes of ss. 106.30-106.36, candidates for Governor and Lieutenant Governor on the same ticket shall be considered as a single candidate. To be eligible to receive contributions from the fund, a candidate *may shall* not be an unopposed candidate as defined in s. 106.011(15) and *must shall*:

(1) Agree to abide by the expenditure limits provided in s. 106.34.

(2)(a) Raise contributions as follows:

1.(a) One hundred fifty thousand dollars for a candidate for Governor.

2.(b) One hundred thousand dollars for a candidate for Cabinet office.

*(b) The following may not be used to meet the threshold amounts in paragraph (a):*

1. *Loans or contributions from the candidate's personal funds;*

2. *Contributions from national, state, and county executive committees of a political party; or*

3. *Contributions from individuals who at the time of contributing are not state residents. For purposes of this subparagraph, any person validly registered to vote in this state shall be considered a state resident.*

(3) Limit loans or contributions from the candidate's personal funds to \$25,000 and contributions from national, state, and county executive committees of a political party to \$25,000 in the aggregate, ~~which loans or contributions shall not qualify for meeting the threshold amounts in subsection (2).~~

(4) Submit to a postelection audit of the campaign account by the division.

Section 46. Subsection (2) of section 106.35, Florida Statutes, is amended to read:

106.35 Distribution of funds.—

(2)(a) Each candidate who has been certified to receive contributions from the Election Campaign Financing Trust Fund shall be entitled to distribution of funds as follows:

1. For qualifying matching contributions making up all or any portion of the threshold amounts specified in s. 106.33(2), distribution shall be on a two-to-one basis.

2. For all other qualifying matching contributions, distribution shall be on a one-to-one basis.

*(b) Qualifying matching contributions are those of \$250 or less from an individual, made after September 1 of the calendar year prior to the election. Any contribution that is a loan, is an in-kind contribution, is received from a political committee or committee of continuous existence, or is received from an individual who is not a state resident at the time the contribution is made shall not be considered a qualifying matching contribution. For purposes of this paragraph, any person validly registered to vote in this state shall be considered a state resident. Aggregate contributions from an individual in excess of \$250 will be matched only up to \$250. A contribution from an individual, if made by check, must be drawn on the personal bank account of the individual making the contribution, as opposed to any form of business account, regardless of whether the business account is for a corporation, partnership, sole*

proprietorship, trust, or other form of business arrangement. For contributions made by check from a personal joint account, the match shall only be for the individual who actually signs the check.

Section 47. *Effective June 1, 2002, section 98.0975, Florida Statutes, is repealed.*

Section 48. Section 98.255, Florida Statutes, is amended to read:

*(Substantial rewording of section. See s. 98.255, F.S., for present text.)*

**98.255 Voter-education programs.—**

(1) By March 1, 2002, the Department of State shall adopt rules prescribing minimum standards for nonpartisan voter education. In developing the rules, the department shall review current voter-education programs within each county of the state. The standards shall address, but are not limited to, the following subjects:

- (a) Voter registration;
- (b) Balloting procedures, absentee and polling place;
- (c) Voter rights and responsibilities;
- (d) Distribution of sample ballots; and
- (e) Public service announcements.

(2) Each supervisor of elections shall implement the minimum voter-education standards and shall conduct additional nonpartisan education efforts as necessary to ensure that voters have a working knowledge of the voting process.

(3)(a) By December 15 of each general election year, each supervisor of elections shall report to the Department of State a detailed description of the voter-education programs implemented and any other information that may be useful in evaluating the effectiveness of voter-education efforts.

(b) The Department of State, upon receipt of such information, shall prepare a public report on the effectiveness of voter-education programs and shall submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31 of each year following a general election.

(c) The Department of State shall reexamine the rules adopted pursuant to subsection (1) and consider the findings in the report as a basis for adopting modified rules that incorporate successful voter-education programs and techniques, as necessary.

Section 49. Section 102.014, Florida Statutes, is created to read:

**102.014 Pollworker recruitment and training.—**

(1) The supervisor of elections shall conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election for the purpose of instructing such persons in their duties and responsibilities as election officials. A certificate may be issued by the supervisor of elections to each person completing such training. No person shall serve as an inspector, clerk, or deputy sheriff for an election unless such person has completed the training as required. A clerk may not work at the polls unless he or she demonstrates a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills.

(2) A person who has attended previous training conducted within 2 years before the election may be appointed by the supervisor to fill a vacancy on election day. If no person with prior training is available to fill such vacancy, the supervisor of elections may fill such vacancy in accordance with the provisions of subsection (3) from among persons who have not received the training required by this section.

(3) In the case of absence or refusal to act on the part of any inspector or clerk at any precinct on the day of an election, the supervisor shall appoint a replacement who meets the qualifications prescribed in section 102.012(2). The inspector or clerk so appointed shall be a member of the same political party as the clerk or inspector whom he or she replaces.

(4) Each supervisor of elections shall be responsible for training inspectors and clerks, subject to the following minimum requirements:

(a) Each clerk shall receive four hours of training biannually when not in a general election year, and two hours of training quarterly in each general election year;

(b) Each inspector shall receive at least two hours of training biannually when not in a general election year, and one hour of training quarterly in each general election year.

(c) No clerk shall be entitled to work at the polls unless he or she has had a minimum of six hours of training.

(d) No inspector shall work at the polls unless he or she has had a minimum of three hours of training.

(5) The Department of State shall create a uniform polling place procedures manual and adopt the manual by rule. Each supervisor of elections shall insure that the manual is available in hard copy or electronic form in every precinct in the supervisor's jurisdiction on election day. The manual shall guide inspectors, clerks, and deputy sheriffs in the proper implementation of election procedures and laws. The manual shall be indexed by subject, and written in plain, clear, unambiguous language. The manual shall provide specific examples of common problems encountered at the polls on election day, and detail specific procedures for resolving those problems. The manual shall include, without limitation:

(a) Regulations governing solicitation by individuals and groups at the polling place;

(b) Procedures to be followed with respect to voters whose names are not on the precinct register;

(c) Proper operation of the voting system;

(d) Ballot handling procedures;

(e) Procedures governing spoiled ballots;

(f) Procedures to be followed after the polls close;

(g) Rights of voters at the polls;

(h) Procedures for handling emergency situations;

(i) Procedures for dealing with irate voters;

(j) The handling and processing of provisional ballots; and

(k) Security procedures.

The Department of State shall revise the manual as necessary to address new procedures in law or problems encountered by voters and pollworkers at the precincts.

(6) Supervisors of elections shall work with the business and local community to develop public-private programs to ensure the recruitment of skilled inspectors and clerks.

Section 50. Subsections (8) and (9) of section 102.012, Florida Statutes, are repealed.

Section 51. Subsection (2) of section 102.021, Florida Statutes, is amended to read:

**102.021 Compensation of inspectors, clerks, and deputy sheriffs.—**

(2) Inspectors and clerks of election and deputy sheriffs serving at the precincts may receive compensation and travel expenses, as provided in s. 112.061, for attending the pollworker training required by s. 102.014 ~~102.012(8)~~.

Section 52. Section 101.031, Florida Statutes, is amended to read:

**101.031 Instructions for electors.—**

(1) The Department of State, or in case of municipal elections the governing body of the municipality, shall print, in large type on cards, instructions for the electors to use in voting. It shall provide not less than



two cards for each voting precinct *for each election* and furnish such cards to each supervisor upon requisition. Each supervisor of elections shall send a sufficient number of these cards to the precincts prior to an election. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary. *The cards must also include the list of rights and responsibilities afforded to Florida voters, as described in subsection (2).*

(2) *The supervisor of elections in each county shall have posted at each polling place in the county the Voter's Bill of Rights and Responsibilities in the following form:*

#### VOTER'S BILL OF RIGHTS

*Each registered voter in this state has the right to:*

1. *Vote and have his or her vote accurately counted.*
2. *Cast a vote if he or she is in line when the polls are closing.*
3. *Ask for and receive assistance in voting.*
4. *Up to two replacement ballots if he or she has voted in error.*
5. *An explanation if his or her registration is in question.*
6. *Cast a provisional ballot if his or her registration is in question.*
7. *Prove his or her identity by signing an affidavit if election officials doubt the voter's identity.*
8. *Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.*
9. *Vote free from coercion or intimidation by elections officers or any other person.*
10. *Vote on a voting system that is in working condition and that will allow votes to be accurately cast.*

#### VOTER RESPONSIBILITIES

*Each registered voter in this state has the responsibility to:*

1. *Study and know candidates and issues.*
  2. *Keep his or her voter address current.*
  3. *Know his or her precinct and its hours of operation.*
  4. *Bring proper identification to the polling station.*
  5. *Know how to operate voting equipment properly.*
  6. *Treat precinct workers with courtesy.*
  7. *Respect the privacy of other voters.*
  8. *Report problems or violations of election law.*
  9. *Ask questions when confused.*
  10. *Check his or her completed ballot for accuracy.*
- (3) *Nothing in this section shall give rise to a legal cause of action.*

(4)(2) In case any elector, after entering the voting booth, shall ask for further instructions concerning the manner of voting, two election officers who are not both members of the same political party, if present, or, if not, two election officers who are members of the same political party, shall give such instructions to such elector, but no officer or person assisting an elector shall in any manner request, suggest, or seek to persuade or induce any elector to vote for or against any particular ticket, candidate, amendment, question, or proposition. After giving the elector instructions and before the elector has voted, the officers or persons assisting the elector shall retire, and such elector shall vote in secret.

Section 53. Effective September 2, 2002, paragraph (b) of subsection (1) and subsections (2), (31), and (32) of section 97.021, Florida Statutes, as amended by this act, are amended to read:

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

- (1) "Absent elector" means any registered and qualified voter who:
  - (b) Is an inspector, a poll worker, a deputy voting ~~system machine~~ custodian, a deputy sheriff, a supervisor of elections, or a deputy supervisor who is assigned to a different precinct than that in which he or she is registered to vote.

- (2) "Ballot" or "official ballot" when used in reference to:

(a) ~~"Voting machines," except when reference is made to write-in ballots, means that portion of the printed strips of cardboard, paper, or other material that is within the ballot frames containing the names of candidates, or a statement of a proposed constitutional amendment or other question or proposition submitted to the electorate at any election.~~

(a)(b) "Paper ballots" means that printed sheet of paper, *used in conjunction with an electronic or electromechanical vote tabulation voting system*, containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote.

(b)(e) "Electronic or electromechanical devices" means a ballot which is voted by the process of *electronically designating punching* or marking with a marking device for tabulation by automatic tabulating equipment or data processing equipment.

(31) "Voting booth" or "booth" means that booth or enclosure wherein an elector casts his or her ballot, ~~be it a paper ballot, a voting machine ballot, or a ballot cast~~ for tabulation by an electronic or electromechanical device.

(32) "Voting system" means a method of casting and processing votes that functions wholly or partly by use of ~~mechanical~~, electromechanical, or electronic apparatus or by use of paper ballots and includes, but is not limited to, the procedures for casting and processing votes and the programs, operating manuals, ~~tabulating cards~~, printouts, and other software necessary for the system's operation.

Section 54. Effective September 2, 2002, section 98.471, Florida Statutes, is amended to read:

98.471 Use of precinct register at polls.—The precinct register, as prescribed in s. 98.461, may be used at the polls in lieu of the registration books for the purpose of identifying the elector at the polls prior to allowing him or her to vote. The clerk or inspector shall require each elector, upon entering the polling place, to present a Florida driver's license, a Florida identification card issued under s. 322.051, or another form of picture identification approved by the Department of State. The elector shall sign his or her name in the space provided, and the clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector. If the elector fails to furnish the required identification, or if the clerk or inspector is in doubt as to the identity of the elector, such clerk or inspector shall follow the procedure prescribed in s. 101.49. ~~The precinct register may also contain the information set forth in s. 101.47(8) and, if so, the inspector shall follow the procedure required in s. 101.47, except that the identification provided by the elector shall be used for the signature comparison.~~

Section 55. Effective September 2, 2002, paragraph (a) of subsection (1) of section 100.071, Florida Statutes, as amended by this act, is amended to read:

100.071 Grouping of candidates on primary election ballot.—

(1)(a) Where two or more similar offices are to be filled in the same election, the names of candidates shall be placed or printed upon the ballot ~~or voting machine~~ in groups or districts; that is, if two or more members of the Legislature or two or more members of a governing board are to be elected from the same geographical area, then the candidates' names shall be placed or printed on the ballot ~~or voting machines~~ in groups or districts, as the case may be.

Section 56. Effective September 2, 2002, subsection (3) of section 100.361, Florida Statutes, is amended to read:

## 100.361 Municipal recall.—

(3) **BALLOTS.**—The ballots at the recall election shall conform to the following: With respect to each person whose removal is sought, the question shall be submitted: “Shall . . . be removed from the office of . . . by recall?” Immediately following each question there shall be printed on the ballots the two propositions in the order here set forth:

“(name of person) should be removed from office.”

“(name of person) should not be removed from office.”

Immediately to the right of each of the propositions shall be placed a square on which the electors, by making a crossmark (X), may vote either of the propositions. Voting machines or electronic or electromechanical equipment may be used.

Section 57. Section 101.151, Florida Statutes, is amended to read:

101.151 Specifications for ~~ballots~~ *general election ballot*.—~~In counties in which voting machines are not used, and in other counties for use as absentee ballots not designed for tabulation by an electronic or electromechanical voting system, the general election ballot shall conform to the following specifications:~~

(1) *Paper ballots* ~~The ballot~~ shall be printed on paper of such thickness that the printing cannot be distinguished from the back.

(2) ~~Across the top of the ballot shall be printed “Official Ballot, General Election,” beneath which shall be printed the county, the precinct number, and the date of the election. The precinct number, however, shall not be required for absentee ballots. Above the caption of the ballot shall be two stubs with a perforated line between the stubs and between the lower stub and the top of the ballot. The top stub shall be stub No. 1 and shall have printed thereon, “General Election, Official Ballot,” and then shall appear the name of the county, the precinct number, and the date of the election. On the left side shall be a blank line under which shall be printed “Signature of Voter.” On the right side shall be “Initials of Issuing Official,” above which there shall be a blank line. The second stub shall be the same, except there shall not be a space for signature of the elector. Both stubs No. 1 and No. 2 on ballots for each precinct shall be prenumbered consecutively, beginning with “No. 1.” However, a second stub shall not be required for absentee ballots.~~

(2)(3)(a) Beneath the caption and preceding the names of candidates shall be the following words: “To vote for a candidate whose name is printed on the ballot, place a cross (X) mark in the blank space at the right of the name of the candidate for whom you desire to vote. To vote for a write-in candidate, write the name of the candidate in the blank space provided for that purpose.” The ballot shall have headings under which shall appear the names of the offices and names of duly nominated candidates for the respective offices in the following order: the heading “Electors for President and Vice President” and thereunder the names of the candidates for President and Vice President of the United States nominated by the political party which received the highest vote for Governor in the last general election of the Governor in this state; ~~above which shall appear the name of said party.~~ Then shall appear the names of other candidates for President and Vice President of the United States who have been properly nominated. Votes cast for write-in candidates for President and Vice President shall be counted as votes cast for the presidential electors supporting such candidates. Then shall follow the heading “Congressional” and thereunder the offices of United States Senator and Representative in Congress; then the heading “State” and thereunder the offices of Governor and Lieutenant Governor, Secretary of State, Attorney General, Comptroller, Treasurer, Commissioner of Education, Commissioner of Agriculture, state attorney, and public defender, together with the names of the candidates for each office and the title of the office which they seek; then the heading “Legislative” and thereunder the offices of state senator and state representative; then the heading “County” and thereunder clerk of the circuit court, clerk of the county court (when authorized by law), sheriff, property appraiser, tax collector, district superintendent of schools, and supervisor of elections. Thereafter follows: members of the board of county commissioners; and such other county *and district* offices as are involved in the general election, in the order fixed by the Department of State, *followed, in the year of their election, by “Party Offices,” and thereunder the offices of state and county party executive committee members.* When a write-in candidate has qualified for any office, a subheading “Write-in Candidate for (name of office)” shall be provided followed by a blank space in which to write the name of the candidate. With respect to write-in candidates, if

two or more candidates are seeking election to one office, only one blank space shall be provided.

(b) ~~Immediately following the name of each office on the ballot shall be printed, “Vote for One.” When more than one candidate is nominated for office, the candidates for such office shall qualify and run in a group or district, and the group or district number shall be printed beneath the name of the office. The name of the office shall be printed over each numbered group or district and each numbered group or district shall be clearly separated from the next numbered group or district, the same as in the case of single offices. Following the group or district number shall be printed the words, “Vote for One,” and the names of the candidates in the respective groups or districts shall be arranged thereunder.~~

(c) *If in any election all the offices as set forth in paragraph (a) are not involved, those offices to be filled shall be arranged on the ballot in the order named.*

(3)(a)(4) The names of the candidates of the party which received the highest number of votes for Governor in the last election in which a Governor was elected shall be placed first under the heading for each office *on the general election ballot*, together with an appropriate abbreviation of party name; the names of the candidates of the party which received the second highest vote for Governor shall be second under the heading for each office, together with an appropriate abbreviation of the party name.

(b)(5) Minor political party candidates and candidates with no party affiliation shall have their names appear on the general election ballot following the names of recognized political parties, in the same order as they were certified.

(4)(a) *The name of candidates for each office shall be arranged alphabetically as to surnames on a primary election ballot.*

(b) *When two or more candidates running for the same office on a primary election ballot have the same or a similar surname, the word “incumbent” shall appear next to the incumbent’s name.*

(5) *The primary election ballot shall be arranged so that the offices of Governor and Lieutenant Governor are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for Governor and Lieutenant Governor, if applicable.*

(6) *The general election ballot shall be arranged so that the offices of President and Vice President are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for President and Vice President and so that the offices of Governor and Lieutenant Governor are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for Governor and Lieutenant Governor.*

(7)(6) Except for justices or judges seeking retention, the names of unopposed candidates shall not appear on the general election ballot. Each unopposed candidate shall be deemed to have voted for himself or herself.

(8)(a) *The Department of State shall adopt rules prescribing a uniform primary and general election ballot for each certified voting system. The rules shall incorporate the requirements set forth in this section and shall prescribe additional matters and forms which include, without limitation:*

1. *Clear and unambiguous ballot instructions and directions;*
2. *Individual race layout; and*
3. *Overall ballot layout.*

(b) *The department rules shall graphically depict a sample uniform primary and general election ballot form for each certified voting system.*

(7) ~~The same requirement as to the type, size, and kind of printing of official ballots in primary elections as provided in s. 101.141(5) shall govern the printing of official ballots in general elections.~~

(8) ~~Should the above directions for complete preparation of the ballot be insufficient, the Department of State shall determine and prescribe any additional matter or form. Not less than 60 days prior to a general~~

election, the Department of State shall mail to each supervisor of elections the format of the ballot to be used for the general election.

(9) ~~The provisions of s. 101.141(7) shall be applicable in printing of said ballot.~~

Section 58. Effective September 2, 2002, section 101.21, Florida Statutes, is amended to read:

101.21 Official ballots; number; printing; payment.—

(1) ~~In any county in which voting machines are not used,~~ The supervisor of elections shall determine the actual number of ballots to be printed for an election. The printing and delivery of ballots and cards of instruction shall, in a municipal election, be paid for by the municipality, and in all other elections by the county.

(2) ~~In any county in which voting machines are used, one set of official ballots shall be provided for each machine plus a number of sets equal to 5 percent of the total number of machines; one set shall be inserted or placed in or upon each machine, and the remainder of the sets shall be retained in the custody of the supervisor, unless it shall become necessary during the election to make use of same upon or in the machines.~~

Section 59. Effective September 2, 2002, section 101.24, Florida Statutes, is amended to read:

101.24 Ballot boxes and ballots.—The supervisor of elections, ~~except where voting machines are used,~~ shall prepare for each polling place one ballot box of sufficient size to contain all the ballots of the particular precinct, and the ballot box shall be plainly marked with the name of the precinct for which it is intended. An additional ballot box, if necessary, may be supplied to any precinct. Before each election, the supervisor shall place in the ballot box or ballot transfer container as many ballots as are required in s. 101.21. After securely sealing the ballot box or ballot transfer container, the supervisor shall send the ballot box or ballot transfer container to the clerk or inspector of election of the precinct in which it is to be used. The clerk or inspector shall be placed under oath or affirmation to perform his or her duties faithfully and without favor or prejudice to any political party.

Section 60. Effective September 2, 2002, subsection (2) of section 101.292, Florida Statutes, is amended to read:

101.292 Definitions; ss. 101.292-101.295.—As used in ss. 101.292-101.295, the following terms shall have the following meanings:

(2) “Voting equipment” means ~~new or used voting machines and materials, parts, or other equipment necessary for the maintenance or improvement of voting machines, the individual or combined retail value of which is in excess of the threshold amount for CATEGORY TWO purchases provided in s. 287.017. The term “voting equipment” also includes electronic or electromechanical voting systems, voting devices, and automatic tabulating equipment as defined in s. 101.5603, as well as materials, parts, or other equipment necessary for the operation and maintenance of such systems and devices, the individual or combined retail value of which is in excess of the threshold amount for CATEGORY TWO purchases provided in s. 287.017.~~

Section 61. Effective September 2, 2002, section 101.34, Florida Statutes, is amended to read:

101.34 Custody of voting ~~system machines.~~—The supervisor of elections shall be the custodian of the voting ~~system machines~~ in the county using them, and he or she shall appoint deputies necessary to prepare and supervise the ~~voting system machines~~ prior to and during elections. The compensation for such deputies shall be paid by the supervisor of elections.

Section 62. Effective September 2, 2002, section 101.341, Florida Statutes, is amended to read:

101.341 Prohibited activities by voting ~~system machine~~ custodians and deputy custodians.—

(1) No voting ~~system machine~~ custodian or deputy custodian or other employee of the supervisor of elections, which employee's duties are primarily involved with the preparation, maintenance, or repair of voting equipment, shall accept employment or any form of consideration

from any person or business entity involved in the purchase, repair, or sale of voting equipment unless such employment has the prior written approval of the supervisor of elections of the county by which such person is employed.

(2) Any person violating the provisions of this section ~~commits is guilty of a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.~~ Such person shall also be subject to immediate discharge from his or her position.

Section 63. Effective September 2, 2002, section 101.43, Florida Statutes, is amended to read:

101.43 Substitute ballot.—When ~~voting machines are used and~~ the required official ballots for a precinct are not delivered in time to be used on election day, or after delivery, are lost, destroyed or stolen, the clerk or other officials whose duty it is to provide ballots for use at such election, in lieu of the official ballots, shall have substitute ballots prepared, conforming as nearly as possible to the official ballots, and the board of election shall substitute these ballots to be used in the same manner as the official ballots would have been used at the election.

Section 64. Section 101.49, Florida Statutes, is amended to read:

101.49 Procedure of election officers where signatures differ.—

(1) Whenever any clerk or inspector, upon a just comparison of the ~~signatures signature, doubts shall doubt~~ that the ~~signature handwriting affixed to a signature identification slip~~ of any elector who presents himself or herself at the polls to vote is the same as the signature of the elector affixed in the registration book, the clerk or inspector shall deliver to the person an affidavit which shall be in substantially the following form:

STATE OF FLORIDA,  
COUNTY OF . . . .

I do solemnly swear (or affirm) that my name is . . . . ; that I am . . . . years old; that I was born in the State of . . . . ; that I am registered to vote, and at the time I registered I resided on . . . . Street, in the municipality of . . . . , County of . . . . , State of Florida; that I am a qualified voter of the county and state aforesaid and have not voted in this election.

\_\_\_\_\_  
(Signature of voter)

Sworn to and subscribed before me this . . . . day of . . . . , A. D.  
\_\_\_\_\_  
(year)

\_\_\_\_\_  
(Clerk or inspector of election)

Precinct No. . . . .  
County of . . . .

(2) The person shall fill out, in his or her own handwriting or with assistance from a member of the election board, the form and make an affidavit to the facts stated in the filled-in form; such affidavit shall then be sworn to and subscribed before one of the inspectors or clerks of the election who is authorized to administer the oath. Whenever the affidavit is made and filed with the clerk or inspector, the person shall then be ~~permitted admitted to the voting machine~~ to cast his or her vote, but if the person fails or refuses to make out or file such affidavit, then he or she shall not be permitted to vote.

Section 65. Effective September 2, 2002, subsections (4), (5), and (8) of section 101.5603, Florida Statutes, are amended to read:

101.5603 Definitions relating to Electronic Voting Systems Act.—As used in this act, the term:

(4) “Electronic or electromechanical voting system” means a system of casting votes by use of voting devices or marking devices and counting ballots by employing automatic tabulating equipment or data processing equipment, *and the term includes touchscreen systems.*

(5) “Marking device” means ~~either an approved apparatus used for the piercing of ballots by the voter or any approved device for marking a ballot with ink or other substance or by touching a screen~~ which will enable the ballot to be tabulated by means of automatic tabulating equipment.

(8) “Voting device” means ~~either an apparatus in which ballots are inserted and used in connection with a marking device for the piercing~~

~~of ballots by the voter or~~ an apparatus by which votes are registered electronically.

Section 66. Effective September 2, 2002, section 101.5604, Florida Statutes, is amended to read:

101.5604 Adoption of system; procurement of equipment; commercial tabulations.—The board of county commissioners of any county, at any regular meeting or a special meeting called for the purpose, may, upon consultation with the supervisor of elections, adopt, purchase or otherwise procure, and provide for the use of any electronic or electromechanical voting system approved by the Department of State in all or a portion of the election precincts of that county. Thereafter the electronic or electromechanical voting system may be used for voting at all elections for public and party offices and on all measures and for receiving, registering, and counting the votes thereof in such election precincts as the governing body directs. *Any electronic or electromechanical voting system used by the county must be a precinct tabulation voting system. Any such board may contract for the tabulation of votes at a location within the county when there is no suitable tabulating equipment available which is owned by the county.*

Section 67. Effective September 2, 2002, subsections (3) and (10) of section 101.5606, Florida Statutes, are amended, and subsections (13) and (14) are added to said section, to read:

101.5606 Requirements for approval of systems.—No electronic or electromechanical voting system shall be approved by the Department of State unless it is so constructed that:

(3)(a) The automatic tabulating equipment will be set to reject all votes for any office or measure when the number of votes therefor exceeds the number which the voter is entitled to cast or when the voter is not entitled to cast a vote for the office or measure.

(b) *The automatic tabulating equipment will be set to reject a ballot which the tabulating equipment reads as a ballot with no votes cast.*

(10) It is capable of automatically producing precinct totals in printed *and electronic format for use in producing countywide totals, marked, or punched form, or a combination thereof.*

(13) *It is a precinct count tabulation system.*

(14) *It does not use a punch card ballot.*

Section 68. Section 101.56062, Florida Statutes, is created to read:

101.56062 Voting system loan program; use; rule.—

(1) *The purpose of this section is to provide assistance to counties to purchase voting systems necessary to conduct elections.*

(2) *The department is authorized to make and administer loans to eligible counties for the purpose of purchasing voting systems and ancillary equipment needed to record and tabulate a vote in each precinct for any election held by the county supervisor of elections.*

(3) *The term of loans made pursuant to this section shall be interest free and not exceed 10 years.*

(4) *The department is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section. Such rules shall set forth, a median price range which the cost of voting systems shall not exceed for the purpose of procuring loans under this section, and a priority system for loans based on need. The department shall consider the cost of similar voting systems within the state in determining the median price range. The priority system shall give special consideration to the following:*

- (a) *The county millage rate;*
- (b) *Growth in the county's tax base over the last 3 years;*
- (c) *The financial health of the county;*
- (d) *The financial ability of the county to repay the loan;*
- (e) *The median household income of the county population;*

(f) *Poverty rate estimates;*

(g) *Per capita income level; and*

(h) *Any other reliably documented measures of disadvantage status.*

(5)(a) *If a county defaults under the terms of its loan agreement, the department shall so certify to the Comptroller, who shall forward the amount delinquent to the department from any unobligated funds due to the county under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution. Certification of delinquency shall not limit the department from pursuing other remedies available for default on a loan, including accelerating loan repayments.*

(b) *The department may impose a penalty for delinquent loan payments in the amount of 5 percent of the amount due, in addition to charging the cost to handle and process the debt. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.*

(6) *The department is authorized to terminate or rescind a financial assistance agreement when the county fails to comply with the terms and conditions of the agreement.*

(7) *A county that has secured a loan pursuant to this section and meets any of the conditions set forth in s. 218.503(1)(a)-(d) may petition the Governor for suspension of payment of the loan principle and, if applicable, unpaid penalties. The Governor is authorized to suspend any payment of a loan secured pursuant to this section, including any unpaid penalties, for any county that has fulfilled the requirements of this subsection.*

Section 69. Paragraph (b) of subsection (1) of section 101.5607, Florida Statutes, is amended to read:

101.5607 Department of State to maintain voting system information; prepare software.—

(1)

(b) Within 24 hours after the completion of any logic and accuracy test conducted pursuant to s. 101.5612(4), the supervisor of elections shall send by certified mail to the Department of State a copy of the tabulation program which was used in the logic and accuracy testing.

Section 70. Paragraph (b) of subsection (2) of section 101.5608, Florida Statutes, is amended to read:

101.5608 Voting by electronic or electromechanical method; procedures.—

(2) When an electronic or electromechanical voting system utilizes a ballot card or paper ballot, the following procedures shall be followed:

(b) Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. *If the vote tabulation device has rejected a ballot, the ballot shall be considered spoiled and a new ballot shall be provided to the voter. The election official, without examining the original ballot, shall state the possible reasons for the rejection and direct the voter to the instruction model provided at the precinct pursuant to s. 101.5611. A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in an envelope.*

Section 71. Section 101.5612, Florida Statutes, is amended to read:

101.5612 Testing of tabulating equipment.—

(1) *All electronic or electromechanical voting systems shall be thoroughly tested at the conclusion of maintenance and programming. Tests shall be sufficient to determine that the voting system is properly programmed, the election is correctly defined on the voting system, and all of the voting system input, output, and communication devices are working properly.*

(2)(4) On any day not more than 10 days prior to the election day, the supervisor of elections shall have the automatic tabulating equipment

publicly tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in one or more newspapers of general circulation in the county or, if there is no newspaper of general circulation in the county, by posting such notice in at least four conspicuous places in the county. The supervisor or the municipal elections official may, at the time of qualifying, give written notice of the time and location of such public the preelection test to each candidate qualifying with that office and obtain a signed receipt that such notice has been given. The Department of State shall give written notice to each statewide candidate at the time of qualifying, or immediately at the end of qualifying, that the voting equipment will be tested and advise each such candidate to contact the county supervisor of elections as to the time and location of the public preelection test pretest. The supervisor or the municipal elections official shall, at least 15 days prior to an election, send written notice by certified mail to the county party chair of each political party and to all candidates for other than statewide office whose names appear on the ballot in the county and who did not receive written notification from the supervisor or municipal elections official at the time of qualifying, stating the time and location of the public preelection test of the automatic tabulating equipment. The canvassing board shall convene, and each member of the canvassing board shall certify to the accuracy of the test. For the test, the canvassing board may designate one member to represent it. The test shall be open to representatives of the political parties, the press, and the public. Each political party may designate one person with expertise in the computer field who shall be allowed in the central counting room when all tests are being conducted and when the official votes are being counted. Such designee shall not interfere with the normal operation of the canvassing board.

(3) For electronic or electromechanical voting systems configured to tabulate absentee ballots at a central or regional site, the public testing shall be conducted by processing a preaudited group of ballots so produced as to record a predetermined number of valid votes for each candidate and on each measure and to include one or more ballots for each office which have activated voting positions in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated and errorless results achieved immediately before the start of the official count of the ballots and again after the completion of the official count. The programs and ballots used for testing shall be sealed and retained under the custody of the county canvassing board.

(4)(a)1. For electronic or electromechanical voting systems configured to include electronic or electromechanical tabulation devices which are distributed to the precincts, all or a sample of the devices to be used in the election shall be publicly tested. If a sample is to be tested, the sample shall consist of a random selection of at least 5 percent or 10 of the devices, whichever is greater. The test shall be conducted by processing a group of ballots, causing the device to output results for the ballots processed, and comparing the output of results to the results expected for the ballots processed. The group of ballots shall be produced so as to record a predetermined number of valid votes for each candidate and on each measure and to include for each office one or more ballots which have activated voting positions in excess of the number allowed by law in order to test the ability of the tabulating device to reject such votes.

2. If any tested tabulating device is found to have an error in tabulation, it shall be deemed unsatisfactory. For each device deemed unsatisfactory, the canvassing board shall take steps to determine the cause of the error, shall attempt to identify and test other devices that could reasonably be expected to have the same error, and shall test a number of additional devices sufficient to determine that all devices are satisfactory. Upon deeming any device unsatisfactory, the canvassing board may require all devices to be tested or may declare that all devices are unsatisfactory.

3. If the operation or output of any tested tabulation device, such as spelling or the order of candidates on a report, is in error, such problem shall be reported to the canvassing board. The canvassing board shall then determine if the reported problem warrants its deeming the device unsatisfactory.

(b) At the completion of testing under this subsection, the canvassing board or its representative, the representatives of the political parties,

and the candidates or their representatives who attended the test shall witness the resetting of each device that passed to a preelection state of readiness and the sealing of each device that passed in such a manner as to secure its state of readiness until the opening of the polls.

(c) The canvassing board or its representative shall execute a written statement setting forth the tabulation devices tested, the results of the testing, the protective counter numbers, if applicable, of each tabulation device, the number of the seal securing each tabulation device at the conclusion of testing, any problems reported to the board as a result of the testing, and whether each device tested is satisfactory or unsatisfactory.

(d) Any tabulating device deemed unsatisfactory shall be reprogrammed, repaired, or replaced and shall be made available for retesting. Such device must be determined by the canvassing board or its representative to be satisfactory before it may be used in any election. The canvassing board or its representative shall announce at the close of the first testing the date, place, and time that any unsatisfactory device will be retested or may, at the option of the board, notify by telephone each person who was present at the first testing as to the date, place, and time that the retesting will occur.

(e) Records must be kept of all preelection testing of electronic or electromechanical tabulation devices used in any election. Such records are to be present and available for inspection and reference during public preelection testing by any person in attendance during such testing. The need of the canvassing board for access to such records during the testing shall take precedence over the need of other attendees to access such records so that the work of the canvassing board will not be delayed or hindered. Records of testing must include, for each device, the name of each person who tested the device and the date, place, time, and results of each test. Records of testing shall be retained as part of the official records of the election in which any device was used.

(2) The test shall be conducted by processing a preaudited group of ballots so produced as to record a predetermined number of valid votes for each candidate and on each measure and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated immediately before the start of the official count of the ballots in the same manner as set forth above. After the completion of the count, the test shall be repeated. The programs and ballots used shall be sealed and retained under the custody of the county canvassing board.

Section 72. Effective September 2, 2002, subsections (1), (2), (3), and (7) of section 101.5614, Florida Statutes, as amended by this act, are amended to read:

#### 101.5614 Canvass of returns.—

(1)(a) In precincts in which an electronic or electromechanical voting system is used, as soon as the polls are closed, the election board shall secure the voting devices against further voting. The election board shall thereafter open the ballot box in the presence of members of the public desiring to witness the proceedings and count the number of voted ballots, unused ballots, provisional ballots, and spoiled ballots to ascertain whether such number corresponds with the number of ballots issued by the supervisor. If there is a difference, this fact shall be reported in writing to the county canvassing board with the reasons therefor if known. The total number of voted ballots shall be entered on the forms provided. The proceedings of the election board at the precinct after the polls have closed shall be open to the public; however, no person except a member of the election board shall touch any ballot or ballot container or interfere with or obstruct the orderly count of the ballots.

(b) In lieu of opening the ballot box at the precinct, the supervisor may direct the election board to keep the ballot box sealed and deliver it to a central or regional counting location. In this case, the election board shall count the stubs removed from the ballots to determine the number of voted ballots.

(2)(a) If the ballots are to be tallied at a central location or at no more than three regional locations, the election board shall place all ballots that have been cast and the unused, void, provisional, and defective ballots in the container or containers provided for this purpose, which

shall be sealed and delivered forthwith to the central or regional counting location or other designated location by two inspectors who shall not, whenever possible, be of the same political party. The election board shall certify that the ballots were placed in such container or containers and each container was sealed in its presence and under its supervision, and it shall further certify to the number of ballots of each type placed in the container or containers.

(2)(b) ~~If ballots are to be counted at the precincts, such ballots shall be counted pursuant to rules adopted by The Department of State, which rules shall, in accordance with s. 101.015, adopt rules that provide safeguards which conform as nearly as practicable to the safeguards provided in the procedures for the counting of votes at a precinct and at a central or regional location.~~

(3)(a) ~~All proceedings at the central or regional counting location or other designated location shall be under the direction of the county canvassing board and shall be open to the public, but no person except a person employed and authorized for the purpose shall touch any ballot or ballot container, any item of automatic tabulating equipment, or any return prior to its release. If the ballots are tabulated at regional locations, one member of the canvassing board or a person designated by the board to represent it shall be present at each location during the testing of the counting equipment and the tabulation of the ballots.~~

(3)(b) ~~The results of~~ If ballots are tabulated at precinct regional locations, the results of such election may be transmitted via dedicated teleprocessing lines to the main computer system for the purpose of compilation of complete returns. The security guidelines for transmission of returns by dedicated teleprocessing lines shall conform to rules adopted by the Department of State pursuant to s. 101.015.

(7) Absentee ballots may be counted by automatic tabulating equipment if they have been punched or marked in a manner which will enable them to be properly counted by such equipment.

Section 73. Effective September 2, 2002, section 101.58, Florida Statutes, is amended to read:

101.58 Supervising and observing registration and election processes.—The Department of State may, at any time it deems fit, upon the petition of 5 percent of the registered electors; or upon the petition of any candidate, county executive committee chair, state committeeman or committeewoman, or state executive committee chair, appoint one or more deputies whose duties shall be to observe and examine the registration and election processes and the condition, custody, and operation of the voting system and equipment machines in any county or municipality. The deputy shall have access to all registration books and records as well as any other records or procedures relating to the voting process. The deputy may supervise preparation of the election equipment machines and procedures for election, and it shall be unlawful for any person to obstruct the deputy in the performance of his or her duty. The deputy shall file with the Department of State a report of his or her findings and observations of the registration and election processes in the county or municipality, and a copy of the report shall also be filed with the clerk of the circuit court of said county. The compensation of such deputies shall be fixed by the Department of State; and costs incurred under this section shall be paid from the annual operating appropriation made to the Department of State.

Section 74. Effective September 2, 2002, subsection (1) of section 101.64, Florida Statutes, is amended to read:

101.64 Delivery of absentee ballots; envelopes; form.—

(1) The supervisor shall enclose with each absentee ballot two envelopes: a secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and a mailing envelope, into which the absent elector shall then place the secrecy envelope, which shall be addressed to the supervisor and also bear on the back side a certificate in substantially the following form:

Note: Please Read Instructions Carefully Before  
Marking Ballot and Completing Voter's Certificate.

#### VOTER'S CERTIFICATE

I, . . . , am a qualified and registered voter of . . . County, Florida. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an

election, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate and have my signature witnessed will invalidate my ballot. I am entitled to vote an absentee ballot for one of the following reasons:

1. I am unable without another's assistance to attend the polls.
2. I may not be in the precinct of my residence during the hours the polls are open for voting on election day.
3. I am an inspector, a poll worker, a deputy voting system machine custodian, a deputy sheriff, a supervisor of elections, or a deputy supervisor who is assigned to a different precinct than that in which I am registered.
4. On account of the tenets of my religion, I cannot attend the polls on the day of the general, special, or primary election.
5. I have changed my permanent residency to another county in Florida within the time period during which the registration books are closed for the election. I understand that I am allowed to vote only for national and statewide offices and on statewide issues.
6. I have changed my permanent residency to another state and am unable under the laws of such state to vote in the general election. I understand that I am allowed to vote only for President and Vice President.
7. I am unable to attend the polls on election day and am voting this ballot in person at the office of, and under the supervision of, the county supervisor of elections.

(Voter's Signature)

(Last four digits of voter's social security number)

Note: Your Signature Must Be Witnessed By Either:

- a. A Notary or Officer Defined in Item 6.b. of the Instruction Sheet.

Sworn to (or affirmed) and subscribed before me this . . . day of . . . , (year) , by (name of person making statement) . My commission expires this . . . day of . . . , (year) .

(Signature of Official)

(Print, Type, or Stamp Name)

(State or Country of Commission)

Personally Known . . . . . OR Produced Identification . . . . .

Type of Identification Produced . . . . .

OR

- b. One Witness, who is a registered voter in the State.

I swear or affirm that the voter signed this Voter's Certificate in my presence and that, unless certified as an absentee ballot coordinator, I have not witnessed more than 5 ballots for this election.

WITNESS:

(Signature of Witness)

(Printed Name of Witness)

(Voter I.D. Number of Witness and County of Registration)

(Address)

(City/State)

Section 75. Effective September 2, 2002, subsection (2) of section 101.71, Florida Statutes, is amended to read:

101.71 Polling place.—

(2) Notwithstanding the provisions of subsection (1), whenever the supervisor of elections of any county determines that the accommodations for holding any election at a polling place designated for any precinct in the county are unavailable or are inadequate for the expeditious and efficient housing and handling of voting and voting paraphernalia, including voting machines where used, the supervisor may provide, not less than 30 days prior to the holding of an election, that the voting place for such precinct shall be moved to another site which shall be accessible to the public on election day in said precinct or, if such is not available, to another site which shall be accessible to the public on election day in a contiguous precinct. If such action of the supervisor results in the voting place for two or more precincts being located for the purposes of an election in one building, the voting places for the several precincts involved shall be established and maintained separate from each other

in said building. When any supervisor moves any polling place pursuant to this subsection, the supervisor shall, not more than 30 days or fewer than 7 days prior to the holding of an election, give notice of the change of the polling place for the precinct involved, with clear description of the voting place to which changed, at least once in a newspaper of general circulation in said county. A notice of the change of the polling place involved shall be mailed, at least 14 days prior to an election, to each registered elector or to each household in which there is a registered elector.

Section 76. Effective September 2, 2002, subsection (1) of section 101.75, Florida Statutes, is amended to read:

101.75 Municipal elections; change of dates for cause.—

(1) In any municipality, when the date of the municipal election falls on the same date as any statewide or county election and *the voting devices of the voting system used in the county machines* are not available for both elections, the municipality may provide that the municipal election may be held within 30 days prior to or subsequent to the statewide or county election.

Section 77. Effective September 2, 2002, subsections (4) and (7) of section 102.012, Florida Statutes, are amended to read:

102.012 Inspectors and clerks to conduct elections.—

(4)(a) *The election board of each precinct shall attend the polling place by 6 a.m. of the day of the election and shall arrange the furniture, stationery, and voting equipment.*

(b) An election board shall conduct the voting, beginning and closing at the time set forth in s. 100.011. If more than one board has been appointed, the second board shall, upon the closing of the polls, come on duty and count the votes cast. In such case, the first board shall turn over to the second board all closed ballot boxes, registration books, and other records of the election at the time the boards change. The second board shall continue counting until the count is complete or until 7 a.m. the next morning, and, if the count is not completed at that time, the first board that conducted the election shall again report for duty and complete the count. The second board shall turn over to the first board all ballots counted, all ballots not counted, and all registration books and other records and shall advise the first board as to what has transpired in tabulating the results of the election.

~~(7) For any precinct using voting machines, there shall be one election board appointed, plus an additional inspector for each machine in excess of one; however, the supervisor of elections may appoint a greater number of additional inspectors than required by this subsection.~~

Section 78. Effective September 2, 2002, subsection (3) of section 102.141, Florida Statutes, is amended to read:

102.141 County canvassing board; duties.—

(3) The canvass, except the canvass of absentee electors' returns, shall be made from the returns and certificates of the inspectors as signed and filed by them with the county court judge and supervisor, respectively, and the county canvassing board shall not change the number of votes cast for a candidate, nominee, constitutional amendment, or other measure submitted to the electorate of the county, respectively, in any polling place, as shown by the returns. All returns shall be made to the board on or before noon of the day following any primary, general, special, or other election. If the returns from any precinct are missing, if there are any omissions on the returns from any precinct, or if there is an obvious error on any such returns, the canvassing board shall order a recount of the returns from such precinct. Before canvassing such returns, the canvassing board shall examine the ~~counters on the machines or the~~ tabulation of the ballots cast in such precinct and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the ~~counters of the machines or the~~ tabulation of the ballots cast, the ~~counters of such machines or the~~ tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly.

Section 79. Subsections (8) and (9) of section 103.101, Florida Statutes, are amended to read:

103.101 Presidential preference primary.—

(8) All names of candidates or delegates shall be listed as directed by the Department of State. ~~The ballot as prescribed in this section shall be used.~~

~~(9) The presidential preference primary ballot shall be in substantially the following form:~~

OFFICIAL PRESIDENTIAL PREFERENCE  
PRIMARY BALLOT

No. .... Party

.... COUNTY, FLORIDA

Precinct No. ....

—(Date)—

—(Signature of Voter)—

—(Initials of Issuing Official)—

Stub No. 1

OFFICIAL PRESIDENTIAL PREFERENCE  
PRIMARY BALLOT

No. .... Party

.... COUNTY, FLORIDA

Precinct No. ....

—(Date)—

—(Initials of Issuing Official)—

Stub No. 2

OFFICIAL PRESIDENTIAL PREFERENCE  
PRIMARY BALLOT

.... Party

.... COUNTY, FLORIDA

Precinct No. ....

—(Date)—

~~Place a cross (X) in the blank space to the right of the name of the presidential candidate for whom you wish to vote;~~

~~For President~~

—(Name of Candidate)—

—(Name of Candidate)—

~~or place a cross (X) in the blank space to the right of the name of the delegate(s) for whom you wish to vote.~~

—(Name of Delegate)—

—(Name of Candidate)—

Section 80. Effective September 2, 2002, section 104.30, Florida Statutes, is amended to read:

104.30 Voting systems machine; unlawful possession; tampering.—

(1) Any unauthorized person who unlawfully has possession of any voting system or component machine or key thereof ~~commits is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who tampers or attempts to tamper with or destroy any voting system or equipment machine with the intention of interfering with the election process or the results thereof ~~commits is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 81. Effective September 2, 2002, section 138.05, Florida Statutes, is amended to read:

138.05 Form of ballot.—The clerk of the circuit court of any county in this state, when the names of the towns, villages, and cities required in s. 138.04 have been furnished him or her, shall have printed, at the expense of the county, a suitable ballot to be used in said election, said ballot to contain, in alphabetical order, the names of all such towns, villages, and cities, and no other places shall be printed on the said ballots; ~~provided, that in counties where the use of voting machines is now or may hereafter be authorized by law, the requirements of this section shall, insofar as practicable, be adapted to the use of said voting machines.~~

Section 82. *Sections 101.141, 101.181, 101.191, and 101.5609, Florida Statutes, are repealed.*

Section 83. *Effective September 2, 2002, sections 101.011, 101.27, 101.28, 101.29, 101.32, 101.33, 101.35, 101.36, 101.37, 101.38, 101.39,*



101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, and 101.56, Florida Statutes, are repealed.

Section 84. *The Division of Elections of the Department of State shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 15, 2001, detailing the progress that each county required by this act to upgrade a voting system has made toward the implementation of such system. This section shall take effect July 1, 2001.*

Section 85. *Funding for the implementation of this act shall be as provided for in the 2001-2002 General Appropriations Act. This section shall take effect July 1, 2001.*

Section 86. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 87. Except as otherwise provided herein, this act shall take effect July 1, 2001.

And the title is amended as follows: remove from the title of the bill: everything before the enacting clause and insert in lieu thereof: A bill to be entitled An act relating to elections; amending s. 97.021, F.S.; defining the terms "error in the vote tabulation" and "provisional ballot"; revising the definition of "primary election"; amending s. 100.061, F.S.; providing for a single primary election, including the date for holding that election; providing that candidates receiving the highest number of votes in the primary election are declared nominated; providing a method for deciding tie votes; repealing s. 100.091, F.S., relating to the second primary election, to conform; repealing s. 100.096, F.S., relating to the holding of special elections in conjunction with the second primary election, to conform; amending ss. 97.055, 97.071, 97.1031, and 98.081, F.S., relating to restrictions on changing party affiliation between primary elections, to conform; amending s. 99.063, F.S.; revising the date to designate a Lieutenant Governor running mate, to conform; amending s. 101.62, F.S.; revising the dates for mailing absentee ballots to absent electors overseas and eliminating advance absentee ballots, to conform; amending ss. 10.1008, 99.061, 99.095, 99.103, 100.071, 100.081, 100.111, 100.141, 101.251, 101.252, 103.021, 103.022, 103.091, 105.031, 105.041, 105.051, 106.07, and 106.29, F.S.; revising and deleting references, to conform; amending s. 106.08, F.S.; increasing campaign contribution limits; providing penalties; revising and deleting references to the primary elections, to conform; creating s. 98.0977, F.S.; providing for development of a statewide voter registration database; providing for update of information in the database; requiring quarterly progress reports to the Legislature until fully implemented; providing for an operational date; providing for an appropriation; creating s. 98.0979, F.S.; providing that voter registration information is public except for information made confidential by law; providing requirements for securing copies of any voter registration information; creating s. 101.048, F.S.; authorizing and providing requirements for provisional ballots, including the canvassing thereof; amending s. 101.045, F.S.; requiring verification of an elector's eligibility if the elector's name is not on the precinct register; authorizing the voting of a provisional ballot if eligibility cannot be determined; amending s. 101.5614, F.S., relating to the canvass of returns; providing for provisional ballots, to conform; providing a penalty for releasing the results of an election prior to the closing of the polls; amending s. 101.68, F.S.; allowing the processing of absentee ballots through electronic tabulating equipment prior to election day; prohibiting the release of the results of a canvassing or processing of absentee ballots prior to the closing of the polls; providing a penalty; amending s. 101.69, F.S.; allowing a voter who has requested an absentee ballot and who decides to vote at the polls on election day to vote a provisional ballot, if the absentee ballot is not returned; amending s. 102.111, F.S.; revising membership of the Elections Canvassing Commission; revising provisions for filling vacancies on the commission; amending s. 102.112, F.S.; revising the deadline for submission of county returns to the Department of State following the general election; eliminating reference to the second primary election; providing that late returns shall be ignored; providing an exception due to an emergency; eliminating provisions establishing fines for late reporting; amending s. 102.141, F.S.; clarifying canvassing procedures relating to election recounts; providing conditions under which a manual recount is required; amending s. 102.166, F.S.; modifying protest procedures and deadlines for requesting a manual recount; providing for the use of certain standards for determining voter intent; amending s. 102.167, F.S.; providing

the form of protest of election returns with the Elections Canvassing Commission; amending s. 102.168, F.S.; providing that an unsuccessful candidate is the proper party to bring an election contest for certain elections; providing that any elector is the proper party to bring an election contest for elections involving a referendum; clarifying the circumstances under which a person may bring an election contest; providing that the Elections Canvassing Commission is a defendant in certain contested elections; removing certain authority of circuit judges to fashion orders relating to contests; amending s. 99.096, F.S.; providing conditions for automatic ballot access for minor party candidates without having to pay a filing fee or qualify by the alternative method, if otherwise qualified; amending s. 106.31, F.S.; providing legislative intent with respect to public campaign financing; amending s. 106.33, F.S.; prohibiting the use of contributions from individuals who are not state residents to meet the eligibility threshold for receiving election campaign financing; amending s. 106.35, F.S.; providing that certain contributions may not be used as qualifying matching contributions; repealing s. 98.0975, F.S., relating to list maintenance of the central voter file; amending s. 98.255, F.S.; providing for nonpartisan voter education; requiring the supervisors of elections to report to the Division of Elections on voter-education programs; requiring the division to report to the Legislature on the effectiveness of voter-education programs; creating s. 102.014, F.S.; providing for pollworker recruitment and training; repealing s. 102.012(8) and (9), F.S., relating to pollworker training; amending s. 102.021, F.S., revising a cross reference, to conform; amending s. 101.031, F.S.; providing for a Voter's Bill of Rights and Responsibilities; providing responsibilities of supervisors of elections; amending s. 97.021, F.S.; revising certain definitions applicable to the Florida Election Code to remove provisions relating to voting systems that use voting machines or paper ballots and to restrict such definitions to electronic or electromechanical voting systems; amending s. 101.151, F.S.; providing general specifications for ballots; deleting provisions specific to certain elections and voting systems; requiring the Department of State to adopt rules prescribing uniform primary and general election ballots for each certified voting system; amending s. 101.5603, F.S.; revising definitions relating to the Electronic Voting Systems Act to specify touchscreen voting systems as electronic or electromechanical voting systems and to remove provisions relating to voting machines; amending s. 101.5604, F.S.; requiring any electronic or electromechanical voting system used by a county to be a precinct tabulation system; amending s. 101.5606, F.S.; providing additional requirements for electronic or electromechanical voting systems; creating s. 101.56062, F.S.; establishing a loan program for counties to purchase voting equipment; providing the terms and conditions of such loans; providing for a priority system based on county need; providing penalties for default or delinquent payments; providing for suspension of payment of principal and penalties under certain financial emergency conditions; providing rulemaking authority; amending s. 101.5607, F.S.; conforming a cross reference; amending s. 101.5608, F.S.; providing procedures to be followed after a vote tabulation device rejects a ballot; amending s. 101.5612, F.S.; providing standards and requirements for the testing of electronic or electromechanical voting systems; providing recordkeeping requirements; amending s. 101.5614, F.S.; removing references to the canvassing of returns at central or regional locations, to conform; revising requirements for the transmission of precinct returns; providing for adoption of security guidelines by rule; amending s. 101.292, F.S.; modifying the definition of "voting equipment," applicable to purchasing requirements, to remove provisions relating to voting machines; amending s. 104.30, F.S.; prohibiting any unauthorized person from unlawfully possessing any voting system or component thereof; prohibiting any person from tampering or attempting to tamper with or destroying any voting system or equipment with the intention of interfering with the election process or the results thereof; providing penalties; removing references to voting machines, to conform; amending ss. 98.471, 100.071, 100.361, 101.21, 101.24, 101.34, 101.341, 101.43, 101.49, 101.58, 101.64, 101.71, 101.75, 102.012, 102.141, 103.101, and 138.05, F.S.; removing provisions relating to voting systems that use voting machines or paper ballots and revising references to conform to changes made by the act; repealing ss. 101.141, 101.181, 101.191, and 101.5609, F.S., relating to the specifications and form of ballots, to conform; repealing ss. 101.011, 101.27, 101.28, 101.29, 101.32, 101.33, 101.35, 101.36, 101.37, 101.38, 101.39, 101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, and 101.56, F.S., relating to voting systems that use voting machines or paper ballots, to conform; requiring the Division of Elections to provide the Governor and Legislature a progress report on the upgrading of county voting systems; providing that funding for implementation of the act shall be as provided for in the General Appropriations Act; providing severability; providing effective dates.

On motion by Senator Posey, the Senate refused to concur in the House amendment.

### CONFEREES APPOINTED

The President appointed the following conferees on **CS for SB 1118**: Senator Posey, Chairman; Senators Smith, Carlton, Sebesta,

The action of the Senate was certified to the House.

### MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Lee, by two-thirds vote **SB 804**, **CS for SB 904**, **SB 1380**, **SB 1458** and **CS for SB 1734** were withdrawn from the Committee on Rules and Calendar; **CS for CS for SB 442**, **CS for CS for SB 1612**, **CS for SB 1670**, **CS for SB 1816**, **CS for SB 1896**, **CS for SB 1920**, **SB 1926** and **CS for SB 2044** were withdrawn from the Committees on Appropriations Subcommittee on General Government and Appropriations; **SB 1544** and **CS for CS for SB 2066** were withdrawn from the Committee on Finance and Taxation; **CS for CS for SB 1312**, **CS for CS for SB's 1960 and 1760** and **SB 2216** were withdrawn from the Committees on Appropriations Subcommittee on Health and Human Services; and Appropriations; **CS for SB 1466** and **SB 1980** were withdrawn from the Committees on Appropriations Subcommittee on Public Safety and Judiciary; and Appropriations; **CS for SB 1976** was withdrawn from the Committee on Governmental Oversight and Productivity; **CS for SB 1188** was withdrawn from the Committees on Governmental Oversight and Productivity; Appropriations Subcommittee on General Government; and Appropriations; **CS for SB 978** was withdrawn from the Committees on Natural Resources; Appropriations Subcommittee on General Government; and Appropriations.

On motion by Senator Lee, by two-thirds vote **SB 636** which has been reported favorably by the Appropriations Subcommittee on Education with amendments, was withdrawn from the Committee on Appropriations and the amendments recommended by the subcommittee will be shown as offered by the Committee on Appropriations.

### RECESS

On motion by Senator Lee, the Senate recessed at 12:02 p.m. to reconvene at 1:15 p.m.

### AFTERNOON SESSION

The Senate was called to order by the President at 1:21 p.m. A quorum present—38:

Mr. President	Dawson	Laurent	Sanderson
Bronson	Diaz de la Portilla	Lawson	Saunders
Brown-Waite	Dyer	Lee	Sebesta
Burt	Garcia	Meek	Silver
Campbell	Geller	Miller	Smith
Carlton	Holzendorf	Mitchell	Villalobos
Clary	Jones	Peaden	Wasserman Schultz
Constantine	King	Posey	Webster
Cowin	Klein	Pruitt	
Crist	Latvala	Rossin	

### SPECIAL ORDER CALENDAR, continued

**CS for CS for SB 710**—A bill to be entitled An act relating to state government; creating the "Florida Customer Service Standards Act"; providing definitions; specifying measures that state departments are directed to implement with respect to interaction with their customers; providing requirements regarding operating hours; providing that failure to comply with the act does not constitute a cause of action; providing exceptions; providing an effective date.

—was read the second time by title.

On motion by Senator Crist, further consideration of **CS for CS for SB 710** was deferred.

On motion by Senator Klein—

**CS for SB 886**—A bill to be entitled An act relating to durable powers of attorney; amending s. 709.08, F.S.; providing for durable powers of attorney contingent upon a specified condition; providing guidelines for such powers; providing statutory forms for affidavits to attest to a specified condition; providing immunity from criminal and civil liability for physicians making a determination of incapacity to manage property under certain conditions; providing an effective date.

—was read the second time by title.

Senator Klein moved the following amendments which were adopted:

**Amendment 1 (951068)**—On page 4, between lines 25 and 26, insert: *A judicial determination that the principal lacks the capacity to manage property pursuant to chapter 744 is not required prior to the determination by the physician and the execution of the affidavit.*

**Amendment 2 (952930)**—On page 4, line 25, after "medicine" insert: *pursuant to chapters 458 and 459*

**Amendment 3 (522422)**—On page 6, lines 12 and 13, delete those lines and insert: *result of making such determination, unless it is shown by a preponderance of*

Pursuant to Rule 4.19, **CS for SB 886** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala—

**CS for SB 1026**—A bill to be entitled An act relating to public records exemptions; amending s. 626.921, F.S.; abrogating the repeal of an exemption from public-records requirements for certain surplus lines insurance information submitted to the Department of Insurance or available for inspection by the department; expanding the exemption to apply to certain surplus lines insurance information submitted to the Florida Surplus Lines Service Office; specifying that the exemption applies to information specific to a particular policy or policyholder; providing for future repeal and legislative review; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 1026** to **HB 405**.

Pending further consideration of **CS for SB 1026** as amended, on motion by Senator Latvala, by two-thirds vote **HB 405** was withdrawn from the Committees on Banking and Insurance; Governmental Oversight and Productivity; and Rules and Calendar.

On motion by Senator Latvala—

**HB 405**—A bill to be entitled An act relating to public records exemptions for certain surplus lines insurance records; amending s. 626.921, F.S., which provides an exemption from public records requirements for certain surplus lines insurance information submitted to the Department of Insurance or available for inspection by the department; reenacting such exemption and removing the October 2, 2001, repeal thereof scheduled under the Open Government Sunset Review Act of 1995; narrowing the exemption to apply to information specific to a particular policy or policyholder; providing an exemption from public records requirements for certain surplus lines insurance information submitted to the Florida Surplus Lines Service Office; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—a companion measure, was substituted for **CS for SB 1026** as amended and read the second time by title.

Senator Latvala moved the following amendment which was adopted:

**Amendment 1 (102500)**—On page 2, line 11 through page 3, line 2, delete those lines and insert:

*(b) Information furnished to the Florida Surplus Lines Service Office under the Surplus Lines Law is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the*

disclosure of the information would reveal information specific to a particular policy or policyholder. This exemption does not prevent the disclosure of any information by the Florida Surplus Lines Service Office to the department, but the exemption applies to records obtained by the department from the Florida Surplus Lines Service Office. The exemption does not apply to any proceeding instituted by the department against an agent or insurer. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that certain records of the Department of Insurance and the Florida Surplus Lines Service Office be held confidential and exempt. The disclosure of surplus lines policy information submitted to the Department of Insurance or to the Florida Surplus Lines Service Office, to the extent that such information reveals information specific to a particular policy or policyholder, would be harmful to insurers or agents due to the economic value of such information if revealed to competitors. Such information may also reveal economic information about the policyholder that would be harmful as an invasion of privacy of the policyholder. Accordingly, it is a public necessity that such information be held confidential and exempt.

Pursuant to Rule 4.19, **HB 405** as amended was placed on the calendar of Bills on Third Reading.

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On motion by Senator Crist, the Senate resumed consideration of—

**CS for CS for SB 710**—A bill to be entitled An act relating to state government; creating the “Florida Customer Service Standards Act”; providing definitions; specifying measures that state departments are directed to implement with respect to interaction with their customers; providing requirements regarding operating hours; providing that failure to comply with the act does not constitute a cause of action; providing exceptions; providing an effective date.

—which was previously considered this day.

Pursuant to Rule 4.19, **CS for CS for SB 710** was placed on the calendar of Bills on Third Reading.

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On motion by Senator Crist—

**SB 770**—A bill to be entitled An act relating to workers’ compensation; amending s. 440.092, F.S.; revising provisions relating to special requirements for compensability under the Workers’ Compensation Law; providing that, in specified circumstances, certain law enforcement officers, when they are in an official law enforcement vehicle, are considered to be acting in the course of their employment; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendments which were moved by Senator Crist and adopted:

**Amendment 1 (835184)**—On page 1, line 29, delete “or unmarked”

**Amendment 2 (844680)**—On page 1, delete line 30 and insert: *presumed to be, unless otherwise rebutted, engaged in a special errand or mission for*

Senator Crist moved the following amendment which was adopted:

**Amendment 3 (464808)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 440.092, Florida Statutes, is amended to read:

440.092 Special requirements for compensability; deviation from employment; subsequent intervening accidents.—

(2) GOING OR COMING.—An injury suffered while going to or coming from work is not an injury arising out of and in the course of employment whether or not the employer provided transportation if such

means of transportation was available for the exclusive personal use by the employee, unless the employee was engaged in a special errand or mission for the employer. For the purposes of this subsection and not withstanding any other provisions of law to the contrary, an injury to a law enforcement officer as defined in Section 943.10(1), Florida Statutes, during the officer’s work period or while going to or coming from work in an official law enforcement vehicle, shall be presumed to be an injury arising out of and in the course of employment unless the injury occurred during a distinct deviation for a non-essential personal errand. If, however, the employer’s policy or the collective bargaining agreement that applies to the officer permits such deviations for non-essential errands, the injury shall be presumed to arise out of and in the course of employment.

Section 2. It is hereby declared by the Legislature that law enforcement officers perform state and municipal functions, that it is their duty to protect life and property at their own risk and peril, and that their activities are vital to the public safety. Therefore, the Legislature declares that it is a proper and legitimate state purpose to provide workers’ compensation coverage to law enforcement officers during work periods and while going to and coming from work in an official law enforcement vehicle. Pursuant to Section 18, Article VII of the State Constitution, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.

Section 3. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to workers’ compensation; amending s. 440.092, F.S.; characterizing certain activities of certain officers as arising out of and in the course of employment for compensability purposes; providing a declaration of important state interest; providing an effective date.

Pursuant to Rule 4.19, **SB 770** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

## MOTIONS

On motion by Senator Lee, by two-thirds vote **CS for SB 118, CS for SB’s 182, 328 and 970, CS for CS for SB 306, CS for SB 322, CS for SB 658, CS for CS for SB 668, SB 698, SB 818, CS for SB 840, CS for SB 890, CS for SB 894, CS for SB 962, SB 1020, SB 1170, CS for SB 1172, SB 1194, SB 1324, SB 1344, CS for SB 1366, SB 1422, CS for SB 1638, CS for SB 1642, CS for CS for SB 1672, CS for SB 1684, CS for SB 2088, HB 47, HB 385, HB 695 and HB 1935** which passed April 27 were ordered immediately certified to the House.

On motion by Senator Lee, a deadline of 30 minutes after recess this day was set for filing amendments to Bills on Third Reading to be considered Tuesday, May 1.

## SPECIAL ORDER CALENDAR, continued

Consideration of **SB 958** was deferred.

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On motion by Senator Holzendorf—

**SB 1220**—A bill to be entitled An act relating to insurance; amending s. 624.4072, F.S.; extending the term of the exemption from taxes and assessments on minority-owned property and casualty insurers; postponing the scheduled repeal of the law; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Holzendorf and adopted:

**Amendment 1 (133104)**—On page 2, delete line 22 and insert:

(4) This section is repealed effective *December 31, July 1 2010*

Pursuant to Rule 4.19, **SB 1220** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

SENATOR BRONSON PRESIDING

On motion by Senator Posey—

**SB 1428**—A bill to be entitled An act relating to the State Group Insurance Program; amending ss. 110.123, 287.022, F.S.; prohibiting limitations by the state on competition for an insurance product or plan on the basis of the compensation arrangement used by the insurer or organization; providing an effective date.

—was read the second time by title.

Senator Posey moved the following amendment which was adopted:

**Amendment 1 (902368)**—On page 4, line 2 and on page 11, line 19, delete “may” and insert: *shall*

Pursuant to Rule 4.19, **SB 1428** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

**SB 1142**—A bill to be entitled An act relating to the emergency telephone system; amending ss. 365.171, 365.172, 365.174, F.S.; transferring state control over the Florida Emergency Telephone Act and the Wireless Emergency Communications Act from the Department of Management Services to the Office of State Technology; conforming statutory references; amending s. 365.173, F.S.; authorizing the State Treasurer to invest moneys in the Wireless Emergency Telephone System Fund; removing requirements that funds be held in escrow; revising the date for submission of the legislative budget request; providing an effective date.

—was read the second time by title.

Senator Silver moved the following amendment:

**Amendment 1 (262000)(with title amendment)**—On page 7, lines 24-29, delete those lines and insert: techniques used in taking and transferring “911” calls; and expenses required to develop and maintain all information (ALI and ANI databases and other information source repositories) necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the “911” call-taking and transferring function; and, in a county defined in s. 125.011(1), such expenses related to a nonemergency “311” system, or similar nonemergency system, which improves the overall efficiency of an existing “911” system or reduces “911” emergency response time for a 2-year pilot project that ends June 30, 2003.

And the title is amended as follows:

On page 1, line 9, after the first semicolon (;) insert: providing for the “911” fee to be used by certain counties to fund a pilot project for a nonemergency system;

On motion by Senator Constantine, further consideration of **SB 1142** with pending **Amendment 1** was deferred.

On motion by Senator Burt—

**SB 1444**—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; providing for appointment by the Governor; providing an effective date.

—was read the second time by title.

Senator Burt moved the following amendment which was adopted:

**Amendment 1 (931042)**—On page 1, line 19 through page 3, line 11, delete those lines and insert:

- (2) Second . . . . . 15 43
- (3) Third . . . . . 6
- (4) Fourth . . . . . 31 30

- (5) Fifth . . . . . 23 22
- (6) Sixth . . . . . 40 39
- (7) Seventh . . . . . 23 22
- (8) Eighth . . . . . 11
- (9) Ninth . . . . . 36 35
- (10) Tenth . . . . . 20 49
- (11) Eleventh . . . . . 72 71
- (12) Twelfth . . . . . 18
- (13) Thirteenth . . . . . 36 35
- (14) Fourteenth . . . . . 9
- (15) Fifteenth . . . . . 33 32
- (16) Sixteenth . . . . . 4
- (17) Seventeenth . . . . . 50 49
- (18) Eighteenth . . . . . 23 22
- (19) Nineteenth . . . . . 15
- (20) Twentieth . . . . . 22 21

Section 1. Section 34.022, Florida Statutes, is amended to read:

34.022 Number of county court judges for each county.—The number of county court judges in each county shall be as follows:

COUNTY	TOTAL
(1) Alachua . . . . .	5
(2) Baker . . . . .	1
(3) Bay . . . . .	3
(4) Bradford . . . . .	1
(5) Brevard . . . . .	8 7
(6) Broward . . . . .	26 25
(7) Calhoun . . . . .	1
(8) Charlotte . . . . .	2
(9) Citrus . . . . .	1
(10) Clay . . . . .	2
(11) Collier . . . . .	3
(12) Columbia . . . . .	1
(13) Dade . . . . .	41
(14) DeSoto . . . . .	1
(15) Dixie . . . . .	1
(16) Duval . . . . .	15 14
(17) Escambia . . . . .	5
(18) Flagler . . . . .	1
(19) Franklin . . . . .	1
(20) Gadsden . . . . .	1
(21) Gilchrist . . . . .	1
(22) Glades . . . . .	1

(23) Gulf .....	1
(24) Hamilton .....	1
(25) Hardee .....	1
(26) Hendry .....	1
(27) Hernando .....	1
(28) Highlands .....	1
(29) Hillsborough .....	15 14

Pursuant to Rule 4.19, **SB 1444** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Silver—

**SB 1820**—A bill to be entitled An act relating to bingo; amending s. 849.0931, F.S.; defining the terms “instant bingo” and “package”; providing rules for the operation of instant bingo games; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 1820** was placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta—

**SB 1916**—A bill to be entitled An act relating to recreational activities at facilities for elderly or disabled adults; authorizing bingo games for residents or clients of certain facilities for the elderly or disabled, and their guests; providing conditions; providing for use of proceeds; providing exemption from local regulation and fees; providing an effective date.

—was read the second time by title.

The Committee on Comprehensive Planning, Local and Military Affairs recommended the following amendment which was moved by Senator Sebesta and adopted:

**Amendment 1 (933894)**—On page 1, delete line 25 and insert: *Prizes may only be claimed by residents or clients of these facilities, or by guests who are residents or clients of other similarly licensed or authorized facilities. Any net*

Pursuant to Rule 4.19, **SB 1916** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Carlton—

**CS for SB 1836**—A bill to be entitled An act relating to public records; amending s. 213.053, F.S.; providing an exemption from public records requirements for information contained in specified documents received by the Department of Revenue in connection with ch. 202, F.S., the Communications Services Tax Simplification Law; authorizing the department to provide certain information relative to said chapter to local governments imposing a local communications services tax; providing for application of confidentiality and penalty provisions to such local governments; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1836** was placed on the calendar of Bills on Third Reading.

On motion by Senator Dyer—

**CS for SB 2142**—A bill to be entitled An act relating to solid waste collection; amending s. 165.061, F.S.; providing requirements for the plan for incorporation of a new municipality relating to contracts for

solid waste collection; amending s. 403.707, F.S.; amending provisions relating to permitting solid waste management facilities; providing requirements for scales used by and records that must be kept by materials recovery facilities and facilities at which construction and demolition debris is processed; providing for applicability; providing for rulemaking; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 2142** was placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta—

**CS for SB 2054**—A bill to be entitled An act relating to the designation of university buildings and facilities; designating the new instruction and research building at Florida Atlantic University's College of Nursing the “Louis and Anne Green Alzheimer's Research Center”; designating the Florida Atlantic University Dania Beach Campus facility the “Kenneth C. Jenne Building”; designating the observatory at Florida Gulf Coast University the “Evelyn L. Egan Astronomical Observatory”; designating the student and educational center at Florida Gulf Coast University the “Sugden Welcome Center”; designating the building at the Women's Soccer and Softball Complex at Florida State University the “Mary Ann Stiles and Barry Smith Team Building”; designating Building 146 at Florida State University, known as the Molecular Biophysics Building, the “Kasha Laboratory”; designating the University of Central Florida's School of Hospitality Management the “Rosen School of Hospitality Management” and the facility that houses said school “Rosen Hall”; designating the new educational program facility at the Florida Museum of Natural History at the University of Florida the “William W. and Nadine M. McGuire Hall”; designating the new alumni center at the University of Florida the “Emerson Alumni Hall”; designating the new accounting building at the University of Florida's Warrington School of Business the “Gary R. Gerson Hall”; designating the women's gymnasium at the University of Florida the “Kathryn Chicone Ustler Hall”; designating the marine science complex at the University of South Florida's St. Petersburg Campus as the “C.W. ‘Bill’ Young Marine Science Complex”; designating the science research building at Florida Agricultural and Mechanical University as the “Frederick S. Humphries Science and Research Center”; authorizing the erection of suitable markers; providing an effective date.

—was read the second time by title.

Senator Webster offered the following amendment which was moved by Senator Sebesta and adopted:

**Amendment 1 (271150)(with title amendment)**—On page 3, line 5, before “*Rosen*” insert: *Harris*

And the title is amended as follows:

On page 1, line 23, before “*Rosen*” insert: *Harris*

Senator Sebesta moved the following amendment which was adopted:

**Amendment 2 (485012)(with title amendment)**—On page 3, between lines 26 and 27 insert:

Section 14. *The new honors college building at the University of Central Florida is designated as the “Burnett Honors College.”*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 12, after the semicolon (;) insert: *designating the new honors college building at the University of Central Florida as the “Burnett Honors College”;*

Senator Campbell moved the following amendment which was adopted:

**Amendment 3 (073700)(with title amendment)**—On page 3, between lines 29 and 30, insert:

Section 15. *The Law School Building at Florida International University is designated the “Rafael Diaz-Balart Building.”*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 12, following the semicolon (;) insert: naming the law school at Florida International University the "Rafael Diaz-Balart Building";

Senator Sebesta moved the following amendment which was adopted:

**Amendment 4 (521116)(with title amendment)**—On page 3, line 8, delete "Rosen" and insert: "Harris Rosen"

And the title is amended as follows:

On page 1, line 23, delete "Rosen" and insert: "Harris Rosen"

Pursuant to Rule 4.19, **CS for SB 2054** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Posey—

**CS for SB 2220**—A bill to be entitled An act relating to governmental data processing; creating s. 119.084, F.S.; providing definitions; authorizing governmental agencies to acquire, hold, and enforce copyrights for data processing software they create; authorizing sale or license of such software; authorizing establishment of sales price and licensing fee; providing requirements for electronic recordkeeping systems; providing for access to public records maintained in electronic recordkeeping systems; providing for fees to be charged for copying public records maintained in electronic recordkeeping systems; prohibiting contracts for public records databases that impair public access to public records; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

Senator Posey moved the following amendment which was adopted:

**Amendment 1 (852944)**—On page 2, lines 4 and 5, delete those lines, and insert:

(b) *"Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs.*

Pursuant to Rule 4.19, **CS for SB 2220** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Constantine, the Senate resumed consideration of—

**SB 1142**—A bill to be entitled An act relating to the emergency telephone system; amending ss. 365.171, 365.172, 365.174, F.S.; transferring state control over the Florida Emergency Telephone Act and the Wireless Emergency Communications Act from the Department of Management Services to the Office of State Technology; conforming statutory references; amending s. 365.173, F.S.; authorizing the State Treasurer to invest moneys in the Wireless Emergency Telephone System Fund; removing requirements that funds be held in escrow; revising the date for submission of the legislative budget request; providing an effective date.

—which was previously considered this day. Pending **Amendment 1 (262000)** by Senator Silver was adopted.

Pursuant to Rule 4.19, **SB 1142** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Carlton—

**CS for CS for SB 1878**—A bill to be entitled An act relating to tax on communications services; creating s. 202.105, F.S.; providing legislative findings and intent with respect to the Communications Services

Tax Simplification Law; amending s. 202.11, F.S.; revising and providing definitions; amending s. 202.12, F.S.; specifying the rates for the state tax; revising provisions relating to application of the tax; providing for application of the tax rate to private communications services and mobile communications services; providing the initial method for determining the sales price of private communications services and a revised method effective January 1, 2004; relieving service providers of certain liability; revising provisions relating to direct-pay permits; creating s. 202.155, F.S.; providing special rules for mobile communications services; providing duties of home service providers and the Department of Revenue in determining a customer's place of primary use and determining the correct taxing jurisdiction; relieving service providers of certain liability; providing requirements with respect to identifying and separately stating the sales price of mobile communications services not subject to the taxes administered under ch. 202, F.S.; amending s. 202.16, F.S.; revising provisions relating to responsibility for payment of taxes and tax amounts and brackets; amending s. 202.17, F.S.; specifying that registration as a dealer of communications services does not constitute registration for purposes of placing and maintaining communications facilities in municipal or county rights-of-way; removing the registration fee for such dealers; revising provisions relating to resale certificates; amending s. 202.18, F.S.; revising provisions relating to distribution of a portion of the proceeds of the tax on direct-to-home satellite service and to distribution of local communications services taxes and adjustment of such distribution; amending s. 202.19, F.S.; revising provisions which authorize imposition of local communications services taxes and provide for use of revenues and certain credits; specifying the maximum rates of such taxes; providing the initial method for determining the sales price of private communications services for local communications services taxes and for the discretionary sales surtax under s. 212.055, F.S., that is imposed as a local communications services tax, and providing a revised method effective January 1, 2004; relieving service providers of certain liabilities; revising requirements relating to the direct-pay permit required to qualify for the limitation on local communications services taxes on interstate communications services; providing for application of local communications services taxes to mobile communications services; amending s. 202.20, F.S.; specifying the local communications services tax conversion rates; revising requirements with respect to adjustment by a local government of its tax rate when tax revenues are less than received from replaced revenue sources; requiring adjustment of the tax rate if revenues received for a specified period exceed a specified threshold; authorizing local governments to increase the tax rate established by the Revenue Estimating Conference and approved by the Legislature to the maximum tax rate so established and approved; amending s. 202.21, F.S.; conforming provisions; amending s. 202.22, F.S., relating to determination of local tax situs for a local communications services tax; revising requirements relating to use of enhanced zip codes; revising requirements relating to certification or recertification of a database by the department; specifying effect when certain applications for certification are not approved or denied within the required time period; revising provisions relating to a dealer's duty to update a database and to the amount of dealer's credit allowed when an alternative method of assigning service addresses is used; amending s. 202.23, F.S.; providing requirements for refunds when excess communications services tax has been paid; creating s. 202.231, F.S.; providing requirements for provision of information by the department to local taxing jurisdictions; amending s. 202.24, F.S., relating to limitations on local taxes and fees imposed on dealers of communications services; deleting provisions relating to legislative review; repealing s. 202.26(3)(i), F.S., which provides for adoption of rules by the department with respect to collection of information no longer required; amending s. 202.27, F.S.; deleting provisions which allow certain dealers making sales in more than one location to file a single return; amending s. 202.28, F.S.; including persons collecting the gross receipts tax in provisions relating to the dealer's credit; amending s. 202.37, F.S.; providing requirements for audits conducted with respect to local communications services taxes; providing that certain persons or entities may provide evidence to the department regarding failure to report taxable sales and providing authority of the department with respect thereto; creating s. 202.38, F.S.; providing for credits or refunds under ch. 202, F.S., for certain bad debts or adjustments with respect to taxes under ch. 212, F.S., or ch. 166, F.S., billed prior to October 1, 2001, and no longer subject to tax; creating s. 202.381, F.S.; providing requirements with respect to implementation of ch. 202, F.S., and ch. 2000-260, Laws of Florida, and transition from the previous tax structure; amending s. 203.01, F.S.; specifying the rate of the gross receipts tax on communications services; amending s. 212.031, F.S.; conforming provisions; amending s. 212.054, F.S.; clarifying that a discretionary sales surtax applies

to transactions taxed under ch. 202, F.S.; amending s. 212.20, F.S.; removing provisions relating to deposit of certain proceeds under ch. 212, F.S., in the Mail Order Sales Tax Clearing Trust Fund; amending ss. 11.45, 218.65, and 288.1169, F.S.; correcting references; amending s. 212.202, F.S.; renaming the Mail Order Sales Tax Clearing Trust Fund as the Communications Services Tax Clearing Trust Fund; amending s. 337.401, F.S.; revising dates for notice of election by municipalities and counties regarding imposition of permit fees to the department; providing that a municipality or county that elects not to impose permit fees on communications services providers may increase its local tax rate by resolution; requiring notice to the department; prescribing regulations governing the amounts that may be imposed by municipalities and counties against certain persons or entities in connection with the placement or maintenance of communications facilities in municipal or county roads or rights-of-way; repealing s. 337.401(3)(f) and (g), F.S., relating to the authority of municipalities and counties to request in-kind requirements from cable service providers and to negotiate cable service franchises, and revising and relocating such provisions under that section; providing relationship of provisions relating to regulation of placement or maintenance of communications facilities in public roads or rights-of-way by counties or municipalities to zoning or land use authority; providing status of registration under such provisions; authorizing municipalities and counties to change their election regarding imposition of permit fees and providing for adjustment of tax rates; providing notice requirements; revising definitions; specifying continued application of s. 166.234, F.S., relating to administration and rights and remedies, to municipal public service taxes on telecommunications services imposed prior to October 1, 2001; providing for payment of franchise fees by cable or telecommunications service providers with respect to services provided prior to October 1, 2001; providing for severability; repealing s. 52 of ch. 2000-260, Laws of Florida, which provides for a legislative study during the 2001 session; repealing s. 58(1) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of those administrative sections of ch. 202, F.S., which have taken effect; repealing s. 58(2) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of the following provisions prior to their October 1, 2001, effective date: the remainder of ch. 202, F.S., which provides for the taxation of the sale of communications services; other statutory amendments which provide related administrative provisions; provisions which remove levy of the municipal public service tax on telecommunications services; provisions which provide for a gross receipts tax on communications services to be applied pursuant to ch. 202, F.S.; provisions which remove the imposition of tax under ch. 212, F.S., on telecommunications service; provisions relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees; and provisions relating to the application of amendments made by ch. 2000-260, Laws of Florida; repealing s. 59 of ch. 2000-260, Laws of Florida, which, effective June 30, 2001, amends s. 337.401, F.S., relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees, to remove amendments made by ch. 2000-260, Laws of Florida, which took effect January 1, 2001; providing effective dates.

—was read the second time by title.

Senator Horne offered the following amendments which were moved by Senator Carlton and adopted:

**Amendment 1 (550688)**—On page 129, line 22 and on page 141, line 2, after “mile” insert: , payable annually,

**Amendment 2 (533720)**—On page 130, between lines 4 and 5 and on page 141, between lines 14 and 15, insert:

*For purposes of this subsection, the term communications facility shall not include communications facilities owned, operated or used by electric utilities or regional transmission organizations exclusively for internal communications purposes. Except as specifically provided herein, municipalities and counties retain all existing authority, if any, to collect fees relating to public roads and rights-of-way from electric utilities or regional transmission organizations, and nothing in this subsection shall alter this authority.*

Pursuant to Rule 4.19, **CS for CS for SB 1878** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Carlton—

**CS for SB 1540**—A bill to be entitled An act relating to trust funds; creating s. 202.193, F.S.; creating the Local Communications Services Tax Clearing Trust Fund within the Department of Revenue; providing for sources of moneys and purposes; providing for annual carryforward of fund balances; providing that the trust fund is exempt from constitutional termination; providing a contingent effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1540** was placed on the calendar of Bills on Third Reading.

On motion by Senator Wasserman Schultz—

**SB 638**—A bill to be entitled An act relating to district school personnel; amending s. 231.40, F.S.; providing for use of employees' sick leave by their family members who also are district employees; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendment which was moved by Senator Wasserman Schultz:

**Amendment 1 (624750)(with title amendment)**—On page 1, line 19, after the period (.) insert: *In developing the policy, the district school board must provide that the recipient may not use the donated sick leave until all of his or her sick leave has been depleted, including sick leave from a sick leave pool, if the recipient participates in a sick leave pool. Donated sick leave under this paragraph shall have no terminal value as provided in s. 231.40(3).*

And the title is amended as follows:

On page 1, line 5, after the semicolon (;) insert: providing for use of donated sick leave and restrictions;

The Committee on Governmental Oversight and Productivity recommended the following amendment to **Amendment 1** which was moved by Senator Wasserman Schultz and adopted:

**Amendment 1A (301292)**—On page 1, line 20, delete “including” and insert: *excluding*

**Amendment 1** as amended was adopted.

Pursuant to Rule 4.19, **SB 638** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Sanderson—

**CS for CS for SB 1038**—A bill to be entitled An act relating to homicide of an unborn quick child; amending s. 316.193, F.S.; including the death of an unborn quick child under DUI manslaughter; amending s. 782.071, F.S.; making the killing of an unborn quick child rather than the killing of a viable fetus a “vehicular homicide”; deleting a provision describing the viability of a fetus; amending s. 782.09, F.S.; providing that killing an unborn quick child by injury to the mother which would be murder in any degree if it resulted in the death of the mother is murder in the same degree; providing penalties; providing that the unlawful killing of an unborn quick child by injury to the mother which would be manslaughter if it resulted in the death of the mother is manslaughter; providing penalties; providing that the death of the mother does not bar prosecution under specified circumstances; providing that the section does not authorize prosecution of a person in connection with a termination of pregnancy; providing a claim for civil damages; amending ss. 921.0022, 960.03, F.S., relating to the Criminal Punishment Code offense severity ranking chart and the definition of “crime” with respect to the Florida Crimes Compensation Act; conforming provisions to changes made by the act; providing an effective date.

—was read the second time by title.



Senator Sanderson moved the following amendment which was adopted:

**Amendment 1 (333990)**—On page 4, lines 26 and 27, delete those lines.

Pursuant to Rule 4.19, **CS for CS for SB 1038** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta, by two-thirds vote **HB 397** was withdrawn from the Committees on Transportation; and Rules and Calendar.

On motion by Senator Sebesta—

**HB 397**—A bill to be entitled An act relating to a public records exemption for certain information relating to prepayment of electronic toll facility charges; amending s. 338.155, F.S., which provides an exemption from public records requirements for personal identifying information given to the Department of Transportation, a county, or an expressway authority for the purpose of prepaying electronic toll facility charges by check, credit card, or charge card; reenacting such exemption and removing the October 2, 2001, repeal thereof scheduled under the Open Government Sunset Review Act of 1995; clarifying a cross reference; providing an effective date.

—a companion measure, was substituted for **SB 1060** and read the second time by title.

Pursuant to Rule 4.19, **HB 397** was placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala—

**CS for SB 1128**—A bill to be entitled An act relating to medical treatment; creating the "Access to Medical Treatment Act"; authorizing a licensed physician to treat an individual for a life-threatening illness or condition by means of an investigational medical treatment authorized by the individual or the individual's legal representative; specifying acts and disclosures that are required before a physician may provide such treatment; providing that investigational medical treatment provided in compliance with the act does not constitute unprofessional conduct; providing that the act does not modify the scope of practice or the provisions of the practice act of licensees; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1128** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 1296** was deferred.

On motion by Senator Wasserman Schultz—

**CS for SB's 1254 and 1954**—A bill to be entitled An act relating to school facilities; amending s. 230.23, F.S.; providing an example of a school-within-a-school; amending s. 235.2157, F.S.; modifying small-school student-population limits; providing for exceptions to the small-schools requirements; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB's 1254 and 1954** was placed on the calendar of Bills on Third Reading.

On motion by Senator Carlton—

**CS for SB 1872**—A bill to be entitled An act relating to the district school tax; amending s. 236.25, F.S.; allowing certain school districts to levy, by referendum, additional district school taxes; providing limitations on the uses of the resulting revenues; amending s. 236.31, F.S.;

providing for millage elections pursuant to s. 236.25, F.S.; amending s. 236.32, F.S.; revising the procedures for conducting school district millage elections; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1872** was placed on the calendar of Bills on Third Reading.

On motion by Senator Posey—

**SB 1420**—A bill to be entitled An act relating to rulemaking authority of the Department of State (RAB); amending s. 20.10, F.S.; authorizing the department to adopt rules to administer laws conferring duties upon it; amending s. 99.061, F.S.; authorizing the department to prescribe rules for filing papers to qualify as a candidate for federal, state, county, or district office; amending s. 101.161, F.S.; providing for ballot initiatives to be numbered in the order of filing or certification and as provided by department rule; amending s. 101.62, F.S.; authorizing the department to adopt rules for preparing and mailing absentee ballots to electors who are overseas; amending s. 106.07, F.S.; authorizing the department to adopt requirements for filing campaign treasurers' reports; amending s. 106.22, F.S.; providing for rules prescribing requirements for filing complaints of voter fraud and for investigating those complaints; amending s. 106.23, F.S.; requiring that requests for advisory opinions by the Division of Elections be submitted in accordance with department rule; amending s. 120.54, F.S.; authorizing the department to prescribe rules under which a state agency may incorporate materials by reference in adopting an agency rule; amending s. 267.061, F.S.; providing additional duties of the Division of Historical Resources with respect to protecting and administering historical resources; authorizing the division to issue certain permits; requiring that the division adopt rules for issuing permits and administering the transfer of certain objects; amending s. 872.05, F.S.; authorizing the department to adopt procedures for reporting an unmarked human burial and determining jurisdiction of the burial; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 1420** was placed on the calendar of Bills on Third Reading.

On motion by Senator Laurent—

**CS for CS for SB 1376**—A bill to be entitled An act relating to mining; amending s. 378.035, F.S.; reserving certain funds in the Non-mandatory Land Reclamation Trust Fund for use by the Department of Environmental Protection for reclaiming lands; authorizing the department to use funds from the trust fund for the purpose of closing certain abandoned phosphogypsum stack systems; limiting the period of operation of the program; requiring the Bureau of Mine Reclamation to review the sufficiency of the trust fund to support certain objectives and make reports; amending s. 378.601, F.S.; deleting provisions exempting certain mining operations from review as developments of regional impact; amending s. 403.4154, F.S.; defining the terms "phosphogypsum stack system" and "process wastewater"; authorizing the Department of Environmental Protection to take action to abate or reduce any imminent hazard caused by a phosphogypsum stack system; requiring the department to recover moneys from the owner or operator of the system; providing for attorney's fees and costs; authorizing the department to impose a lien for the recovery of such moneys; imposing certain fees upon an owner or operator who has not demonstrated financial responsibility; providing for the refund of the fee upon closure of the phosphogypsum stack; authorizing the department to expend moneys from the Nonmandatory Land Reclamation Trust Fund to close abandoned phosphogypsum stack systems; providing for a lien for the recovery of such moneys; amending s. 403.4155, F.S.; requiring the department to review certain rules and determine the adequacy of the rules; providing an effective date.

—was read the second time by title.

Senator Laurent moved the following amendment which was adopted:

**Amendment 1 (490666)(with title amendment)**—On page 13, between lines 12 and 13, insert:

Section 5. *There is hereby appropriated \$16 million from the Non-mandatory Land Reclamation Trust Fund to the Department of Environmental Protection for fiscal year 2001-2002 to carry out the purposes authorized in section 378.035, Florida Statutes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 7, after the semicolon (;) insert: providing an appropriation;

Pursuant to Rule 4.19, **CS for CS for SB 1376** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Carlton—

**CS for SB 1576**—A bill to be entitled An act relating to ad valorem tax administration; amending s. 195.096, F.S.; requiring the Department of Revenue to document and retain records used in the review of assessment rolls; amending s. 195.096, F.S., effective for the 2003 tax rolls and subsequent tax rolls; requiring the Department of Revenue to study assessment groups or market areas to assure the representativeness of ratio-study samples; amending s. 197.502, F.S.; authorizing the tax collector to contract with a title abstract company to provide information concerning property described in a tax certificate; authorizing the tax collector to pay a reasonable fee for this information; providing that the amount of any fee paid for this information must be added to the opening bid for a tax deed for the property; amending s. 200.069, F.S.; changing the presentation of independent special districts' debt-service levies on notices of proposed property taxes; amending s. 193.155, F.S.; revising provisions governing assessment of homestead property; amending s. 197.343, F.S.; changing the date for an additional tax notice; amending s. 193.461, F.S.; adding boarding of livestock to the list of agricultural purposes; creating the Property Tax Administration Task Force; providing purposes and membership of the task force; requiring periodic reports to the Department of Revenue; providing an effective date.

—was read the second time by title.

Senator Carlton moved the following amendments which were adopted:

**Amendment 1 (942040)**—On page 9, lines 1-5, delete those lines and insert: to be collected utilizing the ad valorem method. ~~Voted levies for debt service for all units of local government shall be combined and shown on a single line, including voter approved special assessments for debt service if collected utilizing the ad valorem method.~~

**Amendment 2 (340420)**—On page 13, line 15, delete "(12)" and insert: (11) (12)

**Amendment 3 (570850)(with title amendment)**—On page 18, lines 1-11, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 1, lines 26-28, delete those lines and insert: for an additional tax notice; creating the

**Amendment 4 (351176)(with title amendment)**—On page 18, between lines 11 and 12, insert:

Section 8. Paragraph (a) of subsection (1) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks of the court, local governing boards, the Department of Revenue, and taxpayers. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax levy, assessment, and collection

are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed to state taxpayers in the Florida Statutes and the departmental rules include:

(1) THE RIGHT TO KNOW.—

(a) The right to be mailed notice of proposed property taxes and proposed or adopted non-ad valorem assessments (see ss. 194.011(1), 200.065(2)(b) and (d) and (13)(a), and 200.069). The notice must also inform the taxpayer that the final tax bill may contain additional non-ad valorem assessments (see s. 200.069(11) ~~s. 200.069(12)~~).

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, after the semicolon (;) insert: amending s. 192.0105, F.S.; conforming a cross-reference;

**Amendment 5 (690812)(with title amendment)**—On page 18, between lines 11 and 12, insert:

Section 8. Section 197.212, Florida Statutes, is amended to read:

197.212 Minimum tax bill.—On the recommendation of the county tax collector, the board of county commissioners may adopt a resolution instructing the collector not to mail tax notices to a taxpayer when the amount of taxes shown on the tax notice is less than *an amount up to \$25 \$5*. The resolution shall also instruct the property appraiser that he or she shall not make an extension on the tax roll for any parcel for which the tax would amount to less than *an amount up to \$25 \$5*. The minimum tax bill so established may not exceed *an amount up to \$25 \$5*.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, after the semicolon (;) insert: amending s. 197.212, F.S.; increasing the allowable minimum property tax;

**Amendment 6 (430130)(with title amendment)**—On page 18, between lines 28 and 29, insert:

Section 9. (1) *There is created an advisory committee on airport and seaport property taxation, consisting of 8 members, two of whom shall be appointed by the Governor. The President of the Senate shall appoint two members, one of which must be a member of the Senate, and the Speaker of the House shall appoint two members, one of which must be a member of the House of Representatives. The executive director of the Department of Revenue and one property appraiser appointed by the executive director shall also serve on the committee. The advisory committee shall study the taxation of airport and seaport property and shall submit a written report on this issue to the President of the Senate and the Speaker of the House of Representatives on or before October 1, 2001. The committee shall receive \$100,000 from the General Revenue Fund for this purpose and shall expire upon completion of the report.*

(2) *This section shall take effect upon becoming a law.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 1, after the semicolon (;) insert: creating an advisory committee on airport and seaport property taxation; providing purposes and membership; requiring a report; providing an appropriation;

Senators Saunders and Carlton offered the following amendment which was moved by Senator Saunders and adopted:

**Amendment 7 (743206)(with title amendment)**—On page 18, between lines 28 and 29, insert:

Section 9. Effective upon this act becoming a law and applicable to the tax year 2001 and thereafter, section 196.1975, Florida Statutes, is amended to read:

196.1975 Exemption for property used by nonprofit homes for the aged.—Nonprofit homes for the aged are exempt to the extent that they meet the following criteria:

(1) The applicant must be a corporation not for profit *pursuant to chapter 617* or a Florida limited partnership, the sole general partner of which is a corporation not for profit *pursuant to chapter 617*, and the corporation not for profit must have been exempt as of January 1 of the year for which exemption from ad valorem property taxes is requested from federal income taxation by having qualified as an exempt charitable organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954 or of the corresponding section of a subsequently enacted federal revenue act.

(2) A facility will not qualify as a "home for the aged" unless at least 75 percent of the occupants are over the age of 62 years or totally and permanently disabled. For homes for the aged which are exempt from paying income taxes to the United States as specified in subsection (1), licensing by the Agency for Health Care Administration is required for ad valorem tax exemption hereunder only if the home:

(a) Furnishes medical facilities or nursing services to its residents, or

(b) Qualifies as an assisted living facility under part III of chapter 400.

(3) Those portions of the home for the aged which are devoted exclusively to the conduct of religious services or the rendering of nursing or medical services are exempt from ad valorem taxation.

(4)(a) After removing the assessed value exempted in subsection (3), *units or apartments in* homes for the aged shall be exempt only to the extent that residency in *the existing unit or apartment* of the applicant home is *reserved for or restricted to or the unit or apartment is* occupied by persons who have resided in the applicant home and in good faith made this state their permanent residence as of January 1 of the year in which exemption is claimed and who also meet the requirements set forth in one of the following subparagraphs:

1. Persons who have gross incomes of not more than \$7,200 per year and who are 62 years of age or older.

2. Couples, one of whom must be 62 years of age or older, having a combined gross income of not more than \$8,000 per year, or the surviving spouse thereof, who lived with the deceased at the time of the deceased's death in a home for the aged.

3. Persons who are totally and permanently disabled and who have gross incomes of not more than \$7,200 per year.

4. Couples, one or both of whom are totally and permanently disabled, having a combined gross income of not more than \$8,000 per year, or the surviving spouse thereof, who lived with the deceased at the time of the deceased's death in a home for the aged.

However, the income limitations do not apply to totally and permanently disabled veterans, provided they meet the requirements of s. 196.081.

(b) The maximum income limitations permitted in this subsection shall be adjusted, effective January 1, 1977, and on each succeeding year, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of the monthly consumer price index figures for the stated 12-month period, relative to the United States as a whole, issued by the United States Department of Labor.

(5) Nonprofit housing projects ~~that which~~ are financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the National Housing Act, as amended, and ~~that which~~ are subject to the income limitations established by that department ~~are shall be~~ exempt from ad valorem taxation.

(6) For the purposes of this section, gross income includes social security benefits payable to the person or couple or assigned to an organization designated specifically for the support or benefit of that person or couple.

(7) It is hereby declared to be the intent of the Legislature that subsection (3) implements the ad valorem tax exemption authorized in the third sentence of s. 3(a), Art. VII, State Constitution, and the re-

maining subsections implement s. 6(e), Art. VII, State Constitution, for purposes of granting such exemption to homes for the aged.

(8) Physical occupancy on January 1 is not required in those instances in which a home restricts occupancy to persons meeting the income requirements specified in this section. Those portions of a ~~such~~ property failing to meet those requirements shall qualify for an alternative exemption as provided in subsection (9). In a home in which at least 25 percent of the units or apartments of the home are restricted to or occupied by persons meeting the income requirements specified in this section, the common areas of that home are exempt from taxation.

(9)(a) Each unit or apartment of a home for the aged not exempted in subsection (3) or subsection (4), which is operated by a not for profit corporation and is owned by such corporation or leased by such corporation from a health facilities authority pursuant to part III of chapter 154 or an industrial development authority pursuant to part III of chapter 159, and which property is used by such home for the aged for the purposes for which it was organized, is exempt from all ad valorem taxation, except for assessments for special benefits, to the extent of \$25,000 of assessed valuation of such property for each apartment or unit:

1. Which is used by such home for the aged for the purposes for which it was organized; and

2. Which is occupied, on January 1 of the year in which exemption from ad valorem property taxation is requested, by a person who resides therein and in good faith makes the same his or her permanent home.

(b) Each ~~corporation home~~ applying for an exemption under paragraph (a) ~~of this subsection or paragraph (4)(a)~~ must file with the annual application for exemption an affidavit from each person who occupies a unit or apartment for which an exemption under ~~either of those paragraphs that paragraph~~ is claimed stating that the person resides therein and in good faith makes that unit or apartment his or her permanent residence.

(10) Homes for the aged, or life care communities, however designated, which are financed through the sale of health facilities authority bonds or bonds of any other public entity, whether on a sale-leaseback basis, a sale-repurchase basis, or other financing arrangement, or which are financed without public-entity bonds, are exempt from ad valorem taxation only in accordance with the provisions of this section.

(11) Any portion of such property used for nonexempt purposes may be valued and placed upon the tax rolls separately from any portion entitled to exemption pursuant to this chapter.

(12) When it becomes necessary for the property appraiser to determine the value of a unit, he or she shall include in such valuation the proportionate share of the common areas, including the land, fairly attributable to such unit, based upon the value of such unit in relation to all other units in the home, unless the common areas are otherwise exempted by subsection (8).

(13) *Sections 196.195 and 196.196 do not apply to this section.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 1, after the semicolon (;) insert: amending s. 196.1975, F.S., relating to exemptions for nonprofit homes for the aged; specifying that the exemption applicable to such homes the residents of which meet certain income limitations applies to individual units or apartments of such homes; providing for application of a residency affidavit requirement to applicants for such an exemption; clarifying provisions relating to qualification for the alternative exemption provided by that section for those portions of a home in which the residents do not meet the income limitations; providing that s. 196.195, F.S., relating to requirements and criteria for determining the profit or nonprofit status of an applicant for exemption, and s. 196.196, F.S., relating to criteria for determining whether property is entitled to a charitable, religious, scientific, or literary exemption, do not apply to that section;

Pursuant to Rule 4.19, CS for SB 1576 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Laurent—

**CS for SB 1662**—A bill to be entitled An act relating to Lake Okeechobee Protection Program; amending s. 373.4595, F.S.; authorizing a line item on utility sewer rates to cover wastewater residual treatment and disposal in certain counties; providing exemption from requirements of the Public Service Commission; providing an effective date.

—was read the second time by title.

Senator Laurent moved the following amendments which were adopted:

**Amendment 1 (705540)**—On page 7, line 12, following the period (.) insert: *The fee shall be calculated to be no higher than that necessary to recover the facility's prudent cost of providing the service. Upon request by an affected County Commission, the Florida Public Service Commission will provide assistance in establishing the fee.*

**Amendment 2 (852308)(with title amendment)**—On page 7, between lines 26 and 27, insert:

*c. No less frequently than once every 3 years, the Florida Public Service Commission or the County Commission through the services of an independent auditor shall perform a financial audit of all facilities receiving compensation from an environmental protection disposal fee. The Florida Public Service Commission or the County Commission through the services of an independent auditor shall also perform an audit of the methodology used in establishing the environmental protection disposal fee. The Florida Public Service Commission or the County Commission shall, within 120 days after completion of an audit, file the audit report with the President of the Senate and the Speaker of the House of Representatives and shall provide copies to the County Commissions of the counties set forth in sub-subparagraph b. The books and records of any facilities receiving compensation from an environmental protection disposal fee shall be open to the Florida Public Service Commission and the Auditor General for review upon request.*

And the title is amended as follows:

On page 1, line 8, following the semicolon (;) insert: providing for audits;

Pursuant to Rule 4.19, **CS for SB 1662** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Silver—

**SB 1632**—A bill to be entitled An act relating to the excise tax on documents; amending s. 201.02, F.S.; providing that the tax imposed under this section applies to certificates of title issued in a judicial sale of real property pursuant to a court order or final judgment issued in a foreclosure proceeding; providing the method for computing the tax; providing that this act is to clarify, not change, the law; providing for retroactive applicability; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 1632** was placed on the calendar of Bills on Third Reading.

On motion by Senator Burt—

**CS for SB 1744**—A bill to be entitled An act relating to judgments and liens; amending s. 55.201, F.S.; conforming terminology; amending s. 55.202, F.S.; clarifying enforceable judgments subject to law; amending s. 55.203, F.S.; providing for electronic filing of liens, assessments, warrants, and judgments directly into database; amending s. 55.204, F.S.; clarifying content of judgment lien certificates; conforming terminology and clarifying filekeeping of judgment lien files by the Department of State; providing that filing of a judgment lien certificate does not extend the life of a judgment, order, decree, or warrant; amending s. 55.205, F.S.; clarifying the effect of judgment liens upon buyers who buy without notice as defined in s. 678.1051, F.S.; amending s. 55.206, F.S.; conforming terminology regarding amendments of judgment lien files; amending s. 55.207, F.S.; conforming terminology regarding correction of judgment lien files; amending s. 55.208, F.S.; conforming terminology regarding

effect of filed judgment liens on writs of execution previously delivered to sheriffs; amending s. 55.209, F.S.; clarifying provisions regarding processing fees of judgment lien filing; amending s. 55.604, F.S.; eliminating requirement to file foreign judgments with the Department of State; amending s. 55.605, F.S.; eliminating requirements that the Secretary of State maintain a list of foreign jurisdictions recognizing judgments; amending s. 56.21, F.S.; clarifying provisions regarding execution sales; amending s. 56.27, F.S.; clarifying provisions regarding execution and payments thereunder; amending s. 77.01, F.S.; providing that certain debts related to negotiable instruments are not subject to garnishment; amending s. 77.041, F.S.; providing that only individuals subject to garnishment must be provided a "Notice to Defendant"; amending s. 678.1051, F.S.; providing that a judgment lien certificate does not constitute an adverse claim against a financial asset; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1744** to **HB 601**.

Pending further consideration of **CS for SB 1744** as amended, on motion by Senator Burt, by two-thirds vote **HB 601** was withdrawn from the Committees on Judiciary; Commerce and Economic Opportunities; Appropriations Subcommittee on General Government; and Appropriations.

On motion by Senator Burt, by two-thirds vote—

**HB 601**—A bill to be entitled An act relating to judgments and liens; amending s. 55.201, F.S.; conforming terminology; amending s. 55.202, F.S.; clarifying enforceable judgments subject to law; amending s. 55.203, F.S.; providing for electronic filing of liens, assessments, warrants, and judgments directly into database; amending s. 55.204, F.S.; clarifying content of judgment lien certificates; conforming terminology and clarifying filekeeping of judgment lien files by the Department of State; providing that filing of a judgment lien certificate does not extend the life of a judgment, order, decree, or warrant; amending s. 55.205, F.S.; clarifying the effect of judgment liens upon buyers who buy without notice as defined in s. 678.1051, F.S.; providing an exemption for fraudulent conveyances; amending s. 55.206, F.S.; conforming terminology regarding amendments of judgment lien files; amending s. 55.207, F.S.; conforming terminology regarding correction of judgment lien files; amending s. 55.208, F.S.; conforming terminology regarding effect of filed judgment liens on writs of execution previously delivered to sheriffs; amending s. 55.209, F.S.; clarifying provisions regarding processing fees of judgment lien filing; amending s. 55.604, F.S.; eliminating requirement to file foreign judgments with the Department of State; amending s. 55.605, F.S.; eliminating requirements that the Secretary of State maintain a list of foreign jurisdictions recognizing judgments; amending s. 56.21, F.S.; clarifying provisions regarding execution sales; amending s. 56.27, F.S.; clarifying provisions regarding execution and payments thereunder; amending s. 77.01, F.S.; providing that certain debts related to negotiable instruments are not subject to garnishment; amending s. 77.041, F.S.; providing that only individuals subject to garnishment must be provided a "Notice to Defendant"; amending s. 678.1051, F.S.; providing that a judgment lien certificate does not constitute an adverse claim against a financial asset; amending s. 713.901, F.S., the Florida Uniform Federal Lien Registration Act; providing procedures for filing documentation relating to federal liens; providing an effective date.

—a companion measure, was substituted for **CS for SB 1744** as amended and by two-thirds vote read the second time by title.

Senator Burt moved the following amendment which was adopted:

**Amendment 1 (710238)**—On page 10, lines 19-28, delete those lines and insert:

*lien as the equities may require. This subsection shall not apply to:*

(a) *A transfer to a relative or an insider of the judgment debtor, as such are defined at s. 726.102:*

(b) *A fraudulent transfer, as defined by either s. 726.105, or by U.S.C. 548;*

(c) *A fraudulent asset conversion as defined by s. 222.30; or*

(d) *Twenty-five percent of the transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$10,000;*

(e) *Fifty percent of the transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$20,000;*

(f) *Seventy-five percent of the transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$25,000;*

(g) *Any transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$30,000.*

Pursuant to Rule 4.19, **HB 601** as amended was placed on the calendar of Bills on Third Reading.

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On motion by Senator Saunders—

**CS for SB 1726**—A bill to be entitled An act relating to public records; providing for release of such information under certain circumstances; creating s. 430.105, F.S.; providing for confidentiality and exemption from the public records law for information relating to clients of the Department of Elderly Affairs, clients of service providers contracting with the Department of Elderly Affairs, and certain elders receiving services through programs administered by or funded by the Department of Elderly Affairs; requiring consent for disclosure; providing for future legislative review and repeal; providing a statement of public necessity; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1726** was placed on the calendar of Bills on Third Reading.

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On motion by Senator Sebesta, by two-thirds vote **HB 395** was withdrawn from the Committees on Transportation; and Rules and Calendar.

On motion by Senator Sebesta—

**HB 395**—A bill to be entitled An act relating to public records exemptions for specified information relating to airports; amending s. 331.22, F.S., which provides exemptions from public records requirements for airport security plans of an aviation authority or county or municipal aviation department and for other material that depicts critical airport operating facilities; reenacting such exemptions and removing the October 2, 2001, repeal thereof scheduled under the Open Government Sunset Review Act of 1995; providing an effective date.

—a companion measure, was substituted for **SB 1062** and read the second time by title.

Pursuant to Rule 4.19, **HB 395** was placed on the calendar of Bills on Third Reading.

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On motion by Senator Constantine, consideration of **CS for CS for SB's 336 and 190** was deferred.

## THE PRESIDENT PRESIDING

On motion by Senator Campbell—

**SB 54**—A bill to be entitled An act relating to the City of Coral Springs; providing for the relief of Helene Rippe; authorizing and directing the City of Coral Springs to compensate her for personal injuries she suffered due to the negligence of the city; providing an effective date.

—was read the second time by title.

The Committee on Comprehensive Planning, Local and Military Affairs recommended the following amendment which was moved by Senator Campbell and adopted:

**Amendment 1 (825438)**—On page 2, line 10, delete “\$30,000” and insert: *\$15,000*

Pursuant to Rule 4.19, **SB 54** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

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Consideration of **SB 66** was deferred.

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On motion by Senator Jones—

**SB 30**—A bill to be entitled An act relating to the Monroe County School District; providing for the relief of Joshua England, a minor, by and through his natural and custodial parent and next best friend, Zerhade Jackson; authorizing and directing the District School Board of Monroe County to compensate Joshua England for personal injuries that he suffered due to the negligence of school board employees; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendments which were moved by Senator Jones and adopted:

**Amendment 1 (341608)**—On page 2, line 7, delete “May” and insert: *March*

**Amendment 2 (920476)(with title amendment)**—On page 2, line 21 through page 3, line 3, delete those lines and insert:

*Section 2. (1) The District School Board of Monroe County is authorized and directed to compensate Joshua England, a minor, for injuries and damages he sustained as the result of the negligence of employees of the school district, in the amount of \$2.5 million. This amount shall be paid as follows:*

*(a) The sum of \$1.5 million, less sums due for attorney's fees and costs, and any outstanding medical liens, shall be placed in a Special Needs Trust for the benefit of Joshua England on July 1, 2001; and*

*(b) The sum of \$200,000 shall be placed in the Special Needs Trust for the benefit of Joshua England on July 1, 2002, and on each July 1 occurring for 4 years thereafter, until an additional cumulative sum of \$1 million is paid to the Special Needs Trust.*

*(2) If Joshua England dies prior to payment of any sums required in paragraph (1)(b), any unpaid sums due at the time of his death are forfeited on a pro-rated basis for the year of death, and thereafter, the District School Board of Monroe County is not obligated to make any additional payments.*

*(3) Any funds remaining in the Special Needs Trust at the time of Joshua England's death, after the payment of any outstanding Medicaid liens, shall revert to the District School Board of Monroe County.*

*(4) At least one trustee of the Special Needs Trust established for the benefit of Joshua England must possess financial and trust management experience, and may not be a relative of Joshua England. The term “relative” as used in this subsection means a parent, grandparent, sibling, cousin, aunt, uncle, niece or nephew, whether related by whole or half blood, by affinity, or by adoption.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 4-11, delete those lines and insert: *England, a minor, authorizing and directing the District School Board of Monroe County to compensate Joshua England for personal injuries that he suffered due to the negligence of school board employees; providing for the use of such funds; providing for forfeiture and reversion of the funds; providing for trustee qualifications; providing an effective date.*

Pursuant to Rule 4.19, **SB 30** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

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On motion by Senator Rossin—

**SB 26**—A bill to be entitled An act relating to the City of West Palm Beach; providing for the relief of Rosemary Falkenburg; authorizing and

directing the City of West Palm Beach to compensate Ms. Falkinburg for personal injuries she suffered due to the negligence of a city employee; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 26** was placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala—

**SB 58**—A bill to be entitled An act relating to the City of Clearwater; providing for the relief of Eva Skowronek as the widow of Wieslaw Skowronek and as personal representative of the Estate of Wieslaw Skowronek and for the relief of Anna Marie, Victor, and Hubert Alexander Skowronek, the minor children of Wieslaw Skowronek, for the death of Wieslaw Skowronek as a result of the negligence of the City of Clearwater; providing an effective date.

—was read the second time by title.

The Committee on Criminal Justice recommended the following amendment which was moved by Senator Latvala and adopted:

**Amendment 1 (641462)**—On page 2, lines 5-11, delete those lines and insert:

Section 2. (1) *The City of Clearwater is authorized and directed to compensate Eva Skowronek, as the widow of Wieslaw Skowronek, and their three children for the death of Wieslaw Skowronek due to the negligence of a city employee, in the following amounts:*

(a) *\$100,000 to Eva Skowronek, as the widow of Wieslaw Skowronek;*

(b) *\$33,333.33 to Anna Marie Skowronek, age 19, as the child of Wieslaw Skowronek;*

(c) *\$33,333.33 to Victor Skowronek, as the minor child of Wieslaw Skowronek, to be placed in his guardianship account;*

(d) *\$33,333.33 to Hubert Skowronek, as the minor child of Wieslaw Skowronek, to be placed in his guardianship account.*

(2) *Amounts paid for attorney's fees and costs, as limited in accordance with s. 768.28, shall be payable on a pro rata basis from each of the claimants.*

Pursuant to Rule 4.19, **SB 58** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Dyer—

**SB 10**—A bill to be entitled An act relating to Orange County; providing for the relief of Maria Garcia, as legal guardian of Delfina Benjumea, for injuries and damages sustained by Ms. Benjumea as a result of the negligence of the Orange County Sheriff's Office; providing for a reversionary interest to the Orange County Sheriff's Office; providing legislative intent with respect to expenditures; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 10** was placed on the calendar of Bills on Third Reading.

On motion by Senator Campbell, the Senate resumed consideration of—

**SB 106**—A bill to be entitled An act relating to children and families; creating s. 752.011, F.S.; providing for court-ordered visitation for grandparents and great-grandparents under certain circumstances; providing for appointment of a guardian ad litem and family mediation if the court makes a preliminary finding that the minor is threatened with demonstrable significant mental or emotional harm without such visitation; requiring court-ordered evaluation of the child if mediation fails; providing for a hearing to determine whether the minor is threatened

with demonstrable significant mental or emotional harm; providing criteria for such a determination; providing for attorney's fees and costs; applying the Uniform Child Custody Jurisdiction Act; repealing s. 752.01, F.S., relating to grandparental visitation; encouraging consolidation of actions under ss. 61.13, 752.011, F.S.; amending ss. 752.015, 752.07, F.S., to conform cross-references; amending s. 39.01, F.S.; including references to great-grandparents in definitions relating to dependent children; amending s. 39.509, F.S.; providing for great-grandparents' visitation rights; amending ss. 39.801, 63.0425, F.S.; providing for a great-grandparent's right to adopt; amending s. 61.13, F.S.; providing for great-grandparents' visitation rights and standing with regard to evaluating custody arrangements; conforming this section to provisions of this act; amending s. 63.172, F.S.; conforming references relating to great-grandparental visitation rights under ch. 752, F.S.; providing an effective date.

—which was previously considered this day.

Pursuant to Rule 4.19, **SB 106** was placed on the calendar of Bills on Third Reading.

On motion by Senator Lee—

**SB 274**—A bill to be entitled An act relating to the official Florida Statutes; amending ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes; adopting the Florida Statutes 2001 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 2001 shall be effective immediately upon publication; providing that general laws enacted during the 1999 regular session and prior thereto and not included in the Florida Statutes 2001 are repealed; providing that general laws enacted during the January 2000 special session, the 2000 regular session, and the 2001 regular session are not repealed by this adoption act.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 274** to **HB 657**.

Pending further consideration of **SB 274** as amended, on motion by Senator Lee, by two-thirds vote **HB 657** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Lee, the rules were waived and—

**HB 657**—A bill to be entitled An act relating to the official Florida Statutes; amending ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes; adopting the Florida Statutes 2001 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 2001 shall be effective immediately upon publication; providing that general laws enacted during the 2000 regular session and prior thereto and not included in the Florida Statutes 2001 are repealed; providing that general laws enacted during the 2001 regular session are not repealed by this adoption act.

—a companion measure, was substituted for **SB 274** as amended and read the second time by title.

Senator Lee moved the following amendment which was adopted:

**Amendment 1 (773500)(with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Section 11.2421, Florida Statutes, is amended to read:

11.2421 Florida Statutes 2001 1999 adopted.—The accompanying revision, consolidation, and compilation of the public statutes of 1999 1997 of a general and permanent nature, excepting tables, rules, indexes, and other related matter contained therein, prepared by the Office of Legislative Services under the provisions of s. 11.242, together with corrections, changes, and amendments to and repeals of provisions of Florida Statutes 1999 1997 enacted in additional reviser's bill or bills by the 2001 1999 Legislature, is adopted and enacted as the official statute law of the state under the title of "Florida Statutes 2001 1999" and shall take effect immediately upon publication. Said statutes may be cited as "Florida Statutes 2001 1999," "Florida Statutes," or "F.S. 2001 1999."

Section 2. Section 11.2422, Florida Statutes, is amended to read:

11.2422 Statutes repealed.—Every statute of a general and permanent nature enacted by the State or by the Territory of Florida at or prior to the regular 1999 1997 legislative session, and every part of such statute, not included in Florida Statutes 2001 1999, as adopted by s. 11.2421, as amended, or recognized and continued in force by reference therein or in ss. 11.2423 and 11.2424, as amended, is repealed.

Section 3. Section 11.2424, Florida Statutes, is amended to read:

11.2424 Laws not repealed.—Laws enacted at the January 2000 November 1997 special session, the 2000 1998 regular session, and the 2001 1999 regular session are not repealed by the adoption and enactment of the Florida Statutes 2001 1999 by s. 11.2421, as amended, but shall have full effect as if enacted after its said adoption and enactment.

Section 4. Section 11.2425, Florida Statutes, is amended to read:

11.2425 Rights reserved under repealed statutes.—The repeal of any statute by the adoption and enactment of Florida Statutes 2001 1999, by s. 11.2421, as amended, shall not affect any right accrued before such repeal or any civil remedy where a suit is pending.

Section 5. *The Division of Statutory Revision is requested to prepare for introduction at the 2002 Regular Session of the Legislature an adoption act that adopts the public statutes of 2000.*

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the official Florida Statutes; amending ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes; adopting the Florida Statutes 2001 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 2001 shall be effective immediately upon publication; providing that general laws enacted during the 1999 regular session and prior thereto and not included in the Florida Statutes 2001 are repealed; providing that general laws enacted during the January 2000 Special Session, the 2000 Regular Session, and the 2001 Regular Session are not repealed by this adoption act; requesting the Division of Statutory Revision to prepare an adoption act for introduction at the 2002 Regular Session.

WHEREAS, the Legislature intends to begin annually adopting the Florida Statutes of 2 years preceding the year in which the adoption act is enacted, NOW, THEREFORE,

Pursuant to Rule 4.19, **HB 657** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Bronson—

**CS for SB 1296**—A bill to be entitled An act relating to land acquisition and management; amending s. 73.015, F.S.; clarifying the time-frame for providing specific information to fee owners; requiring agencies to provide specified portions of statute to fee owners; amending s. 270.11, F.S.; providing discretion to water management districts, local governments, the Board of Trustees of the Internal Improvement Trust Fund, and other state agencies to determine whether to reserve mineral interests when selling lands; clarifying the types of information to be given by landowners wanting a release of a reservation; amending s. 373.056, F.S.; authorizing water management districts to grant utility easements on district-owned lands in order to provide utility service; amending s. 373.093, F.S.; granting additional time to water management districts to provide notification prior to executing lease agreements; amending s. 373.096, F.S.; authorizing water management districts to abandon easements, reservations, and right-of-way interests that are no longer needed; amending s. 373.139, F.S.; authorizing water management districts to cure title defects after a land sale is executed; allowing the disclosure of title information, appraisal information, offers, and counteroffers to third parties working on the district's behalf; amending s. 373.1401, F.S.; authorizing water management districts to contract with private entities for management, improvement, or maintenance of land held by the district; amending s. 374.984, F.S.; authorizing the Board of Commissioners of the Florida Inland Navigation District to contract for certain services; providing an effective date.

—was read the second time by title.

Senator Bronson moved the following amendments which were adopted:

**Amendment 1 (062026)**—On page 2, delete line 23 and insert:

(a) *No later than the time the initial written or oral offer of compensation for* ~~At the~~

**Amendment 2 (270650)**—On page 4, line 10, delete “such” and insert: such

**Amendment 3 (874008)**—On page 4, line 23, after “any” insert: *governmental entity or*

**Amendment 4 (392382)(with title amendment)**—On page 6, line 31 and on page 7, lines 3 and 4, delete “or title information”

And the title is amended as follows:

On page 1, line 29, delete “title information,”

**Amendment 5 (282244)(with title amendment)**—On page 6, line 25, delete “Title information,” and insert: ~~Title information,~~

And the title is amended as follows:

On page 1, line 29, delete “title information,”

**Amendment 6 (284912)(with title amendment)**—On page 7, line 18, delete “title information,”

And the title is amended as follows:

On page 1, line 29, delete “title information,”

Pursuant to Rule 4.19, **CS for SB 1296** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

## RECESS

On motion by Senator Lee, the Senate recessed at 2:59 p.m. to reconvene at 4:00 p.m.

## CALL TO ORDER

The Senate was called to order by the President at 4:09 p.m. A quorum present—37:

Mr. President	Dawson	Laurent	Sanderson
Bronson	Diaz de la Portilla	Lawson	Saunders
Brown-Waite	Dyer	Lee	Sebesta
Burt	Garcia	Meek	Silver
Campbell	Geller	Miller	Smith
Carlton	Holzendorf	Mitchell	Wasserman Schultz
Clary	Jones	Peaden	Webster
Constantine	King	Posey	
Cowin	Klein	Pruitt	
Crist	Latvala	Rossin	

## MOTIONS

On motion by Senator Lee, by two-thirds vote **CS for SB 466** was placed on the Special Order Calendar for Tuesday, May 1.

## MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Lee, by two-thirds vote **CS for HB 415** was withdrawn from the Committee on Children and Families; **HB 21** was withdrawn from the Committee on Commerce and Economic Opportunities; **SB 330** was withdrawn from the Committee on Appropriations; **CS for SB 436, SB 1948, SB 2114, CS for CS for SB 2066, CS for CS for SB 2056, SB 1382, CS for CS for SB 1276, CS for SB 1246, CS for SB 1232, CS for SB 1100, CS for CS for CS for SB 1068 and SB 1022** were withdrawn from the Committees on Appropriations Subcommittee on General Government; and Appropriations; **CS for SB 872 and CS for SB 874** were withdrawn from the Committees on Appropriations



Subcommittee on General Government; Appropriations; and Rules and Calendar; **CS for SB 2210**, **SB 1616** and **SB 1408** were withdrawn from the Committees on Governmental Oversight and Productivity; Appropriations Subcommittee on General Government; and Appropriations; and **CS for SB 1914**, **CS for CS for SB 1814**, **SB 1634**, **SB 1146**, **CS for SB 846**, **CS for SB 678** and **CS for SB 524** were withdrawn from the Committees on Appropriations Subcommittee on Public Safety and Judiciary; and Appropriations.

On motion by Senator Lee, by two-thirds vote **CS for CS for SB 170** which has been reported favorably by the Appropriations Subcommittee on General Government with committee substitute, was withdrawn from the Committee on Appropriations and the committee substitute recommended by the subcommittee will be shown as offered by the Committee on Appropriations.

On motion by Senator Lee, by two-thirds vote **HB 1737** was withdrawn from the Committee on Comprehensive Planning, Local and Military Affairs and referred to the Committee on Appropriations; **HB 1745** was withdrawn from the Committees on Regulated Industries; and Comprehensive Planning, Local and Military Affairs; and referred to the Committee on Appropriations; **HB 1743** was withdrawn from the Committee on Criminal Justice and referred to the Committee on Appropriations; **HB 1707** was withdrawn from the Committee on Governmental Oversight and Productivity and referred to the Committee on Appropriations; **HB 1711**, **HB 1719** and **HB 1821** were withdrawn from the Committees on Governmental Oversight and Productivity; and Appropriations Subcommittee on General Government; **HB 1717** was withdrawn from the Committees on Agriculture and Consumer Services; and Governmental Oversight and Productivity; and referred to the Committee on Appropriations; and **CS for SB 792** was withdrawn from the Committees on Appropriations Subcommittee on Health and Human Services; Appropriations; and Rules and Calendar; and referred to the Committee on Appropriations.

## MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator Lee, the rules were waived and the Committee on Appropriations was granted permission to meet May 1 from 8:00 a.m. until 9:00 a.m. to consider **HB 1737**, **HB 1745**, **HB 1743**, **HB 1707**, **HB 1711**, **HB 1719**, **HB 1717**, **HB 1821** and **CS for SB 792**.

On motion by Senator Posey, the rules were waived and the Committee on Ethics and Elections was granted permission to meet May 1 from 12:15 p.m. until 12:45 p.m.

On motion by Senator Lee, the rules were waived and the Special Order Subcommittee of the Committee on Rules and Calendar was granted permission to meet this day 15 minutes after recess until completion.

## MOTIONS

On motion by Senator Lee, by two-thirds vote all bills remaining on the Special Order Calendar this day were placed on the Special Order Calendar for Tuesday, May 1.

## REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Tuesday, May 1, 2001: **CS for SB 1978**, **CS for CS for SB 2214**, **SB 1148**, **SB 136**, **CS for CS for SB 268**, **CS for CS for SB 1196**, **CS for SB 1628**, **SB 1650**, **CS for SB 1724**, **CS for SB 1848**, **CS for SB 1568**, **CS for CS for SB 1346**, **CS for SB 1256**, **CS for CS for SB 2156**, **CS for CS for SB 1178**, **CS for CS for SB 2146**, **CS for SB 2024**, **CS for SB 1530**, **SB 1766**, **CS for CS for SB 1880**, **CS for SB 1640**, **CS for CS for SB 2008**, **CS for CS for SB 2120**, **CS for SB 2174**, **CS for CS for SB 784**, **CS for SB 834**, **CS for SB 1268**, **CS for SB 260**, **SB 968**, **CS for CS for SB 2058**, **SB 1394**

Respectfully submitted,  
Tom Lee, Chairman

## INTRODUCTION AND REFERENCE OF BILLS

### FIRST READING

By Senator Saunders—

**SB 2376**—A bill to be entitled An act relating to Collier County; amending ch. 67-1246, Laws of Florida; amending the scope of the act to authorize a county hearing examiner program; amending definitions; amending the functions, powers, and duties of the planning commissions; amending provisions relating to supplementing and amending the zoning ordinance; amending the powers and duties of the board of zoning appeals; amending provisions relating to appeal from a decision of an administrative official; providing the procedure for establishing a county hearing examiner program; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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**Senate Resolutions 2378—2380**—Not referenced.

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By Senator Dawson—

**SB 2382**—A bill to be entitled An act relating to Broward County; providing for codification of special laws regarding special districts pursuant to section 189.429, F.S., relating to the Sunshine Water Control District; a special district in Broward County; providing legislative intent; amending, repealing, codifying, and reenacting the special act related to the district; declaring the District to be an independent special district; providing a district charter; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

## COMMITTEE SUBSTITUTES

### FIRST READING

By the Committees on Appropriations; Agriculture and Consumer Services; and Senators Geller and Dawson—

**CS for CS for SB 170**—A bill to be entitled An act relating to citrus canker compensation; requiring the Department of Agriculture and Consumer Services to administer a residential citrus canker compensation program; providing for sources of funds; providing for homeowners to receive compensation for citrus trees removed on or after a specified date as part of a citrus canker eradication program; providing eligibility criteria for receiving compensation; specifying the amount of compensation provided under the program, subject to availability of funds; requiring that the department notify homeowners of the program and develop a dispute-resolution process; providing an effective date.

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By the Committees on Appropriations; Finance and Taxation; Comprehensive Planning, Local and Military Affairs; and Senators Constantine and Carlton—

**CS for CS for CS for SB's 310 and 380**—A bill to be entitled An act relating to growth management; amending s. 163.3174, F.S.; requiring that the membership of all local planning agencies or equivalent agencies that review comprehensive plan amendments and rezonings include a nonvoting representative of the district school board; amending s. 163.3177, F.S.; revising elements of comprehensive plans; requiring intergovernmental coordination between local governments and district school boards; creating s. 163.31776, F.S.; providing legislative intent and findings with respect to a public educational facilities element; providing a schedule for adoption; providing for certain municipalities to be exempt; requiring certain interlocal agreements; requiring that the public educational facilities element include certain provisions; providing requirements for future land-use maps; providing a process for

adopting the element; prohibiting a local government that fails to adopt the required element from amending its local comprehensive plan; creating s. 163.3177, F.S.; requiring school boards to report to the local government on school capacity; requiring a local government to deny a plan amendment or a request for rezoning if school capacity is unavailable; authorizing certain mitigation agreements; providing prerequisites to this section's taking effect; providing for an exemption for certain urban infill areas; amending s. 163.3180, F.S.; revising provisions relating to concurrency; amending s. 163.3184, F.S.; revising definitions; revising provisions governing the process for adopting comprehensive plans and plan amendments; amending s. 163.3187, F.S.; authorizing the adoption of a public educational facilities element notwithstanding certain limitations; amending s. 163.3191, F.S., relating to evaluation and appraisal of comprehensive plans; conforming provisions to changes made by the act; creating s. 163.3198, F.S.; requiring the state land planning agency to develop a uniform fiscal-impact-analysis model for evaluating the cost of infrastructure to support development; providing for appointment of a technical advisory committee to advise the agency; requiring a report to the Governor and the Legislature; providing an appropriation; amending s. 186.504, F.S.; adding an elected school board member to the membership of each regional planning council; amending s. 212.055, F.S.; providing for the levy of the local government infrastructure surtax and school capital outlay surtax by a supermajority vote; amending s. 235.002, F.S.; revising legislative intent with respect to building educational facilities; amending s. 235.15, F.S.; revising requirements for educational plant surveys; revising requirements for review and validation of such surveys; amending s. 235.175, F.S.; requiring school districts to adopt education facilities plans; amending s. 235.18, F.S., relating to capital outlay budgets of school boards; conforming provisions to changes made by the act; amending s. 235.185, F.S.; requiring school district educational facilities plans; providing definitions; specifying projections and other information to be included in the plan; providing requirements for the work program; requiring district school boards to submit a tentative plan to the local government; providing for adopting and executing the plan; amending s. 235.188, F.S.; providing bonding requirements; amending s. 235.19, F.S.; exempting certain school boards and local governments from requirements for site planning; revising requirements for school boards; amending s. 235.193, F.S.; requiring interlocal agreements with respect to public educational facilities elements and plans; providing that failure to enter into such agreements will result in the withholding of certain funds for school construction; providing requirements for preparing a district education facilities work plan; repealing s. 235.194, F.S., relating to the general educational facilities report; amending s. 235.218, F.S.; requiring the SMART Schools Clearinghouse to adopt measures for evaluating the school district educational facilities plans; amending s. 235.231, F.S.; providing for the school board to authorize certain change orders for its district education facilities plan; amending s. 236.25, F.S., relating to the district school tax; conforming provisions to changes made by the act; allowing a school district to levy by referendum additional millage for school operational purposes; amending s. 236.31, F.S.; authorizing school boards to direct the county commission to call an election for approval of an ad valorem tax millage; amending s. 236.32, F.S.; substantially rewording the section and providing procedures for holding and conducting school district millage elections; amending s. 380.06, F.S.; revising provisions governing developments of regional impact; providing for designation of a lead regional planning council; exempting certain marinas from Development of Regional Impact review; amending s. 380.0651, F.S.; revising standards for determining the necessity for a development-of-regional-impact review; requiring specified counties to adopt a service-delivery interlocal agreement with all municipalities and the school district and prescribing requirements for such agreements; providing an appropriation; providing a legislative finding that the act is a matter of great public importance; providing that the act does not abridge or modify certain rights, duties, or obligations pursuant to development orders or agreements; directing the Legislative Committee on Intergovernmental Relations to conduct a study of the bonding capacity of local governments and school boards; imposing prerequisites on the ability of certain multi-county airport authorities to amend their development-of-regional-impact development orders or commence development under such development orders; providing effective dates.

By the Committees on Appropriations; Governmental Oversight and Productivity; and Senators Pruitt, Crist and Posey—

**CS for CS for SB 478**—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.021, F.S.; defining the term "public school member" for purposes of the system; amending s. 121.091, F.S.; providing retirement benefits payable to public school members; providing retroactive applicability; providing for funding of the revision of the Florida Retirement System by this act; providing a finding of important state interest; providing an effective date.

By the Committee on Appropriations; and Senator Mitchell—

**CS for SB 682**—A bill to be entitled An act relating to mental health; directing the Department of Children and Family Services to develop and implement a pilot project to provide client-directed and choice-based mental health treatment and support services to certain adults; requiring an independent evaluation; providing evaluation criteria; requiring reports; providing an appropriation; providing for expiration; providing an effective date.

By the Committee on Appropriations; and Senator Cowin—

**CS for SB 1002**—A bill to be entitled An act relating to the Department of Corrections; transferring the Office for Certification and Monitoring of Batterers' Intervention Programs from the Department of Corrections to the Department of Children and Family Services; amending ss. 741.32, 741.325, F.S.; revising references to conform to the transfer of the office; transferring, renumbering, and amending s. 945.76, F.S.; transferring authority for certain fee assessment and collection from the Department of Corrections to the Department of Children and Family Services; amending s. 921.0024, F.S.; removing the Department of Corrections' responsibility for preparing sentencing scoresheets; amending s. 944.023, F.S.; removing reference to pretrial intervention from the correctional master plan; amending s. 944.026, F.S.; removing reference to pretrial intervention programs as community-based programs; amending s. 948.03, F.S.; removing offenders under pretrial intervention from state employee status pursuant to chapter 440, F.S., when participating in a work program; amending s. 948.08, F.S.; deleting the Department of Corrections' responsibilities and authority regarding pretrial intervention and providing for the counties to supervise pretrial intervention offenders; amending s. 948.09, F.S.; removing reference to pretrial intervention with respect to cost of supervision and rehabilitation; providing an effective date.

By the Committees on Appropriations; Commerce and Economic Opportunities; and Senator King—

**CS for CS for SB 1624**—A bill to be entitled An act relating to trust funds; creating the Welfare Transition Trust Fund within the Agency for Workforce Innovation; providing for sources of moneys and purposes; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

By the Committee on Appropriations; and Senator King—

**CS for SB 1720**—A bill to be entitled An act relating to trust funds; creating s. 20.505, F.S.; creating the Administrative Trust Fund within the Agency for Workforce Innovation; providing for sources of funds and purposes; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

By the Committee on Appropriations; and Senator Horne—

**CS for SB 1780**—A bill to be entitled An act relating to school district best financial management practices reviews; creating the "Sharpening the Pencil Act"; amending s. 230.23025, F.S.; providing legislative findings and intent; defining terms; providing for school district assessment;

directing the Legislature to designate the school districts to receive a fully funded best financial management audit and education outcome assessment; providing for public hearings and reports; providing for a "Seal of Best Financial Management" for school districts using best financial management practices; requiring the Department of Education to conduct an annual assurance review of specified school districts; providing for enforcement and appeal; providing rulemaking authority; amending ss. 11.51, 230.23027, 233.43, 235.2197, F.S.; conforming cross-references; repealing s. 11.515, F.S., which provides for school district performance reviews; repealing s. 230.2302, F.S., which provides for performance reviews; providing a process for the creation of land acquisition and facilities advisory boards; providing board duties and responsibilities; providing for board dissolution; repealing s. 230.23026, F.S., which provides for the Florida School District Review Trust Fund; providing an effective date.

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By the Committee on Appropriations; and Senator Mitchell—

**CS for SB 1812**—A bill to be entitled An act relating to trust funds; amending s. 282.20, F.S.; creating s. 282.23, F.S.; creating the Technology Enterprise Trust Fund within the Department of Management Services; providing for sources of funds and purposes; providing for creation of a reserve account; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

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By the Committee on Appropriations; and Senator Mitchell—

**CS for SB 1968**—A bill to be entitled An act relating to the State Law Enforcement Radio Operating Trust Fund; amending s. 282.1095, F.S.; creating the State Law Enforcement Operating Trust Fund; providing for its purposes; transferring a current trust fund balance; providing for review and termination or re-creation of the trust fund; providing an effective date.

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By the Committee on Appropriations; and Senators Sullivan, Crist, Miller, Dyer, Wasserman Schultz and Klein—

**CS for SB 2172**—A bill to be entitled An act relating to state universities; amending s. 240.235, F.S.; requiring the approval of certain student fee modifications, rather than just increases, by certain committees; conforming provisions; creating s. 240.236, F.S.; providing for the establishment of student governments at each state university with the authority to establish certain procedures and to provide for the election or removal of student government officers; providing powers and duties; providing for suspension or removal from office under certain circumstances; amending s. 240.295, F.S.; conforming provisions; creating s. 240.336, F.S.; providing for student governments at community colleges; amending ss. 240.382, 240.531, 447.203, 447.301, F.S.; conforming provisions; repealing s. 240.136, F.S., relating to the removal and suspension of student government officers; providing an effective date.

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By the Committees on Appropriations; Banking and Insurance; and Senator Clary—

**CS for CS for SB 2224**—A bill to be entitled An act relating to the Department of Labor and Employment Security; transferring the Division of Workers' Compensation from the Department of Labor and Employment Security to the Department of Insurance; providing exceptions; transferring various functions, powers, duties, personnel, and assets relating to workers' compensation to the Department of Education, the Agency for Health Care Administration, and the Department of Insurance; providing for certain employees of the division to be given hiring priority by the Department of Insurance; providing pay and employment guidelines for such employees; transferring various functions, powers, duties, personnel, and assets relating to the Unemployment Appeals Commission to the Agency for Workforce Innovation; transferring various functions, powers, duties, personnel, and assets relating to the Public Employee Relations Commission to the Department of Management Services; transferring the Office of Information Services and related resources of the Department of Labor and Employment Security

to the State Technology Office; providing for substitution of a successor agency as a party to judicial and administrative proceedings; transferring the administration of child labor laws to the Department of Business and Professional Regulation; transferring certain functions of the Office of the Secretary, the Office of Administrative Services, and the Office of General Counsel of the Department of Labor and Employment Security relating to labor organizations and migrant and farm labor registration to the Department of Business and Professional Regulation; transferring other workplace regulation functions to the Department of Business and Professional Regulation; providing for the continuation of contracts and agreements; making appropriations; amending s. 20.13, F.S.; creating the Division of Workers' Compensation in the Department of Insurance; amending s. 440.015, F.S.; designating state agencies to administer the workers' compensation law; amending s. 440.02, F.S.; providing definitions; amending ss. 110.205, 440.021, 440.05, 440.09, 440.10, 440.102, 440.103, 440.105, 440.106, 440.107, 440.108, 440.125, 440.13, 440.134, 440.14, 440.15, 440.17, 440.185, 440.191, 440.192, 440.1925, 440.20, 440.207, 440.211, 440.25, 440.271, 440.345, 440.35, 440.381, 440.40, 440.41, 440.42, 440.44, 440.49, 440.491, 440.50, 440.51, 440.52, 440.525, 440.572, 440.59, 440.591, 440.593, 443.012, 443.036, 447.02, 447.205, 447.305, 450.012, 450.191, 450.28, 468.529, 626.88, 626.989, 627.0915, 627.914, F.S., to conform to the transfers made by this act; amending s. 440.24, F.S.; providing for the sale of securities on deposit to satisfy a compensation order; amending s. 440.38, F.S.; transferring operation of provisions requiring the securing of payment of compensation by employers from the Division of Workers' Compensation of the Department of Labor and Employment Security to the Florida Self-Insurer's Guaranty Association, Incorporated, and the Department of Insurance; revising and clarifying requirements and procedures; providing powers and duties of the association and the departments; providing for allocation or payment of state funds to the association for certain purposes; providing rulemaking authority; amending s. 440.385, F.S.; revising and clarifying provisions relating to the association's creation, board of directors, powers and duties, insolvency fund, and plan of operation; providing additional powers of the association; transferring the powers and duties of the Department of Labor and Employment Security relating to the association to the Department of Insurance and revising such powers and duties; providing additional powers and duties of the Department of Insurance; providing for oversight of the association by the department; deleting certain provisions relating to detection and prevention of employer insolvencies; amending s. 440.386, F.S.; providing parity for the association with the Department of Insurance relating to proceedings for delinquency, liquidation, and conservation of assets; amending s. 440.4416, F.S.; transferring the Workers' Compensation Oversight Board from the Department of Labor and Employment Security to the Department of Insurance; revising the membership and appointment of board members; amending s. 624.3161, F.S.; providing for market conduct examinations with respect to workers' compensation; repealing s. 20.171, F.S.; abolishing the Department of Labor and Employment Security; providing severability; providing legislative intent; providing effective dates.

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By the Committee on Appropriations; and Senators Burt and Rossin—

**CS for SJR 2236**—A joint resolution proposing the creation of Section 20 of Article X of the State Constitution, relating to miscellaneous matters, to prescribe the use of moneys in the Lawton Chiles Endowment Fund.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

### FIRST READING

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has passed HB 115, CS for HB 479, HB 585, HB 629, CS for CS for HB 681, HB 763, HB 775, HB 777, HB 799, HB 845, HB 851, HB 855, HB 859, HB 879, HB 885, HB 887, HB 897, HB 901, HB 905, HB 911, HB 937, HB 939, HB 943, HB 1037, HB 1815, HB 1851, HB 1859, HB 1903; has passed as amended HB 601, HB 847, HB 849, HB 857, HB 903, HB 919, HB 927, HB 945, HB 975, CS for HB 987, HB 1041, HB 1115, HB 1157, HB 1183, HB 1419, HB 1565, HB 1855, HB 1857, HB 1897, HB 1899; has adopted HM 1161 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Sorensen—

**HB 115**—A bill to be entitled An act relating to the City of Marathon, Monroe County; authorizing the city to exercise its police powers and jurisdiction extending 1,200 feet into the tidal waters adjacent to its established corporate limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By the Committee on Local Government and Veterans Affairs; and Representative Kendrick and others—

**CS for HB 479**—A bill to be entitled An act relating to the Rainbow Lakes Estates Municipal Service District, an independent special district of the State of Florida in Marion and Levy Counties; codifying the district's charter, chapter 69-1298, Laws of Florida, as amended, pursuant to section 189.429, Florida Statutes; providing legislative intent; amending, codifying, and reenacting all special acts relating to the Rainbow Lakes Estates Municipal Service District as a single act; repealing all prior special acts related to the Rainbow Lakes Estates Municipal Service District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Harrell—

**HB 585**—A bill to be entitled An act relating to Martin County; amending sections 1, 2, 3, and 4 of chapter 65-1906, Laws of Florida, as amended; revising authority of the Board of County Commissioners to levy a tax for indigent health care; revising the name of the fund into which the tax is paid; revising the uses of the fund; revising requirements relating to disbursements from the fund and unexpended balances in the fund; revising the name of the review board and the hospital board; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Argenziano—

**HB 629**—A bill to be entitled An act relating to Citrus County; specifying rights of certain employees and appointees of the Citrus County Sheriff; providing definitions; providing proceedings and provisions with respect to dismissal; providing for transition between administrations; providing for career appeals boards; providing for appeals procedures; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By the Council for Competitive Commerce, the Committee on State Administration and Representative Waters and others—

**CS for CS for HB 681**—A bill to be entitled An act relating to governmental reorganization; amending s. 20.04, F.S.; providing an exception to departmental structure requirements; deleting reference to the Department of Banking and Finance and substituting the Department of Insurance and Financial Services; creating s. 20.121, F.S.; creating the Office of Chief Financial Officer; providing duties; creating s. 20.131, F.S.; creating the Department of Insurance and Financial Services; providing for an executive director; providing for departmental structure; creating the Offices of Commissioner of Insurance, Commissioner of Financial Services, and Commissioner of Securities; providing for appointment and specifying qualifications for each commissioner; providing jurisdiction for each commissioner's office; transferring certain powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds to the

Office of Chief Financial Officer and the Department of Insurance and Financial Services; specifying that rules of the Department of Banking and Finance and the Department of Insurance become rules of the Department of Insurance and Financial Services; specifying that such rules become rules of the Office of Chief Financial Officer under certain circumstances; providing for preservation of validity of judicial or administrative actions involving such departments; providing for substitution of certain parties in interest in such actions; creating the Office of Transition Management; specifying powers and duties thereof; requiring reports to the Governor and the Legislature; directing the Division of Statutory Revision to prepare proposed substantive legislation by a certain time for certain purposes; repealing ss. 20.12 and 20.13, F.S., relating to the Department of Banking and Finance and the Department of Insurance, respectively; providing an appropriation; providing effective dates.

—was referred to the Committees on Governmental Oversight and Productivity; Banking and Insurance; Appropriations Subcommittee on General Government; and Appropriations.

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By Representative Sorensen—

**HB 763**—A bill to be entitled An act relating to Monroe County; amending chapter 69-1191, Laws of Florida, as amended; revising provisions relating to the Utility Board of the City of Key West; authorizing the board to sell tangible personal property related to its utility services under certain circumstances; providing for salaries of board members to be set by resolution; authorizing the board to extend beyond the limits of Monroe County any public utilities under its jurisdiction under certain circumstances; providing for issuance of refunding revenue bonds by the board; authorizing the board to issue commercial paper notes and variable rate bonds and enter into interest rate swap transactions; revising notice provisions relating to sale of bonds; providing for sale of bonds at competitive or negotiated sale rather than public sale; revising eligibility requirements for a special utility rate; authorizing the board to make expenditures for advertising the utility system; authorizing the board to expend funds for emergency purchases; changing a time period for delivery of annual audits to the City Commission of the City of Key West; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Goodlette—

**HB 775**—A bill to be entitled An act relating to Collier Mosquito Control District, an independent special tax district in Collier County, Florida; ratifying and confirming the creation of Collier Mosquito Control District pursuant to chapter 390, F.S. (1949), as an independent mosquito control district; providing for codification of special laws regarding special districts pursuant to s. 189.429, F.S.; providing legislative intent; providing for applicability of chapters 388 and 189, F.S., and other general laws; providing a district charter; providing for amended district boundaries on October 1, 2001; providing for liability and group insurance; providing for repeal of prior special acts related to Collier Mosquito Control District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Hart and others—

**HB 777**—A bill to be entitled An act relating to Hillsborough County; compiling, codifying, and revising chapter 83-423, Laws of Florida, as amended, relating to the Public Transportation Commission; removing gender-specific references; providing legislative intent; protecting the rights of commission employees; creating the commission; providing the commission is an independent special district; prohibiting discriminatory practices; providing for, amending, and adding definitions; providing for the composition of the commission and its procedures; providing for, amending, and adding mandatory and discretionary powers, including the addition of civil penalties and an automatic lien under certain

circumstances; providing for commission staff; providing for and amending an application for certificate process, including establishing public convenience and necessity and procedures for resubmission upon denial; providing for a public vehicle driver's license and adding that a person convicted of being a sexual offender or sexual predator may be denied such licensure and that any such licensure must be revoked upon conviction as a sexual offender or sexual predator; providing penalties; adding provisions relating to citations, administrative hearings in connection with citations, and appeals procedures; adding procedures relating to variances and waivers and an appeals procedure; providing for county responsibility in funding the commission; adding a provision relating to recodification; adding a limited savings clause for rules of the commission; providing for dissolution; providing a severance clause; repealing chapters 83-423, 87-496, 88-493, 95-490, and 2000-441, Laws of Florida, relating to the public transportation commission; providing a savings clause; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Spratt—

**HB 799**—A bill to be entitled An act relating to the Barron Water Control District, an independent special district in Glades County and Hendry County, codifying the District's charter pursuant to section 189.429, Florida Statutes; providing legislative intent; amending, codifying, and reenacting the special laws relating to the Barron Water Control District as a single act; declaring the status of the District; providing for the corporate life of the District and the term of office of the supervisors of the District; repealing chapters 84-436 and 2000-416, Laws of Florida; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Ritter—

**HB 845**—A bill to be entitled An act relating to the West Lauderdale Water Control District; repealing section 9.02 of chapter 96-472, Laws of Florida; providing for the dissolution of the West Lauderdale Water Control District on a specified date; providing for the assumption of its assets and liabilities by the Bonaventure Development District; providing for continuance of certain contracts; providing for limitations and restrictions on the use of the assets and revenues of the West Lauderdale Water Control District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Murman and others—

**HB 851**—A bill to be entitled An act relating to the Hillsborough County Hospital Authority; amending subsection (10) of section 5, relating to facilitating an employee advisory committee, subsection (2) of section 6, relating to an employee advisory committee, subsection (3) of section 7, relating to reimbursement for services to indigents, and section 9, relating to parking and office facilities of chapter 96-449, Laws of Florida; providing that those subsections and section are applicable only when a hospital is operated by the hospital authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Argenziano—

**HB 855**—A bill to be entitled An act relating to Citrus County; amending chapter 99-442, Laws of Florida, the charter of the Citrus County

Hospital Board; reducing the time a member may hold office on the board; revising borrowing authority of the board; revising provisions relating to indebtedness of the board; revising a provision relating to outstanding bonds payable from ad valorem taxes; repealing an obsolete provision; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Harper—

**HB 859**—A bill to be entitled An act relating to Gladeview Water Control District, an independent special tax district in Palm Beach County; providing legislative intent; codifying, reenacting, amending, and repealing special acts relating to the district; providing district status and boundaries; providing for applicability of chapters 298 and 189, Florida Statutes, and other general laws; providing a district charter; providing for ratification of prior acts; providing for liberal construction; providing a saving clause in the event any provision of the act is deemed invalid; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Atwater—

**HB 879**—A bill to be entitled An act relating to the South Indian River Water Control District, Palm Beach County; providing for codification of special laws relating to the South Indian River Water Control District; amending, codifying, reenacting, and repealing all prior special acts; providing for creation, status, charter amendments, and boundaries; providing for a board of supervisors and powers and duties; providing minimum charter requirements in accordance with s. 189.404, F.S.; providing for construction and effect; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Murman and others—

**HB 885**—A bill to be entitled An act relating to Hillsborough County; amending chapter 98-499, Laws of Florida, relating to liens authorized by ordinance in favor of hospitals providing medical care, treatment, or maintenance to a patient, and in favor of the County when it pays for medical care, treatment, or maintenance of a patient; providing definitions; providing optional and mandatory components, both substantive and procedural, of any such implementing ordinance including establishing limitations on lien amounts, and providing for the treatment of other claims, noneconomic damages, and attorney's fees; requiring the ordinance to provide identical procedural remedies to hospitals and the County; providing for an offset for the cost of an insurance policy resulting in payment of any part of the lien amount; barring a lienholder or the lienholder's legal representative from additional compensation from the patient and others in relation to the charges covered by a lien; providing penalties; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Melvin and others—

**HB 887**—A bill to be entitled An act relating to Okaloosa County; amending chapter 99-478, Laws of Florida, relating to the Ocean City-Wright Fire Control District; providing for the annexation of certain unincorporated areas of Okaloosa County into the boundaries of the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Wiles and others—

**HB 897**—A bill to be entitled An act relating to Clay County; providing for codification of special acts pursuant to s. 189.429, F.S., relating to the Clay County Development Authority, an independent special district; providing legislative intent; codifying, reenacting, and amending chapters 57-1226, 61-2004, 63-1223, and 72-504, Laws of Florida; providing for minimum charter requirements; providing for liberal construction; providing a saving clause in the event any provision of the act is deemed invalid; repealing chapters 57-1226, 61-2004, 63-1223, and 72-504, Laws of Florida, 10 days after effective date of act; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Davis and others—

**HB 901**—A bill to be entitled An act relating to the City of Jacksonville; extending the operation of chapters 89-439 and 91-362, Laws of Florida, relating to the Council of the City of Jacksonville and the City of Jacksonville Environmental Protection Board, notwithstanding the board's scheduled expiration on October 1, 2001; providing for the use of procedures under chapter 120, Florida Statutes, including the hiring of administrative law judges, for proceedings involving air or water pollution in which the board seeks to impose a penalty; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Ritter—

**HB 905**—A bill to be entitled An act relating to the Pine Tree Water Control District, Broward County; codifying, repealing, amending, and reenacting special acts relating to the district; providing legislative intent; deleting gender specific references; providing a district charter; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Murman and others—

**HB 911**—A bill to be entitled An act relating to the City of Tampa, Hillsborough County; amending chapter 23559, Laws of Florida, 1945, as amended; revising certain death benefits; repealing all laws in conflict herewith; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Miller and others—

**HB 937**—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending section 4 of chapter 15425, Laws of Florida, 1931, as amended; providing for clarification of the qualifications for a candidate for election to or appointment to fill a vacancy on the city council; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Miller and others—

**HB 939**—A bill to be entitled An act relating to Escambia County; providing for codification of special laws regarding special districts pursuant to chapter 97-255, Laws of Florida, relating to the Pensacola-Escambia Governmental Center Authority, a special district in Escambia County; providing legislative intent; amending, repealing, codifying, and reenacting special acts related to the district; declaring the Authority to be a dependent special district; providing a district charter; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Spratt—

**HB 943**—A bill to be entitled An act relating to the Immokalee Fire Control District, Collier County; amending chapter 2000-393, Laws of Florida, to include specific authorization of the imposition, collection, and use of impact fees as provided in chapter 191, Florida Statutes; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Bennett and others—

**HB 1037**—A bill to be entitled An act relating to the West Manatee Fire and Rescue District, Manatee County; amending chapter 2000-401, Laws of Florida; specifying that the rates provided in the schedule of non-ad valorem assessments are caps on the rates that may be levied without legislative approval; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Miller and others—

**HB 1815**—A bill to be entitled An act relating to Santa Rosa County; amending chapter 79-561, Laws of Florida, as amended, relating to the Santa Rosa County Civil Service Board; providing a revised definition of "disciplinary action"; providing an extended probationary period for entry-level communications dispatcher positions; expanding training program provisions; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Bennett—

**HB 1851**—A bill to be entitled An act relating to the Manatee County Fire Prevention Code Enforcement Board and the Manatee County Fire Marshal Appeals Board; amending section 3 of chapter 85-461, Laws of Florida, as amended; providing a revised date of repeal; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Goodlette—

**HB 1859**—A bill to be entitled An act relating to Collier County; amending ch. 67-1246, Laws of Florida; amending the scope of the act to authorize a county hearing examiner program; amending definitions; amending the functions, powers, and duties of the planning commissions; amending provisions relating to supplementing and amending the

zoning ordinance; amending the powers and duties of the board of zoning appeals; amending provisions relating to appeal from a decision of an administrative official; providing the procedure for establishing a county hearing examiner program; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Melvin—

**HB 1903**—A bill to be entitled An act relating to Escambia County; amending chapter 83-405, Laws of Florida, as amended, relating to the Escambia County Civil Service System; providing for the discretionary withdrawal of any local participating governmental agency or political subdivision from the Civil Service system; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Pickens and others—

**HB 601**—A bill to be entitled An act relating to judgments and liens; amending s. 55.201, F.S.; conforming terminology; amending s. 55.202, F.S.; clarifying enforceable judgments subject to law; amending s. 55.203, F.S.; providing for electronic filing of liens, assessments, warrants, and judgments directly into database; amending s. 55.204, F.S.; clarifying content of judgment lien certificates; conforming terminology and clarifying filekeeping of judgment lien files by the Department of State; providing that filing of a judgment lien certificate does not extend the life of a judgment, order, decree, or warrant; amending s. 55.205, F.S.; clarifying the effect of judgment liens upon buyers who buy without notice as defined in s. 678.1051, F.S.; providing an exemption for fraudulent conveyances; amending s. 55.206, F.S.; conforming terminology regarding amendments of judgment lien files; amending s. 55.207, F.S.; conforming terminology regarding correction of judgment lien files; amending s. 55.208, F.S.; conforming terminology regarding effect of filed judgment liens on writs of execution previously delivered to sheriffs; amending s. 55.209, F.S.; clarifying provisions regarding processing fees of judgment lien filing; amending s. 55.604, F.S.; eliminating requirement to file foreign judgments with the Department of State; amending s. 55.605, F.S.; eliminating requirements that the Secretary of State maintain a list of foreign jurisdictions recognizing judgments; amending s. 56.21, F.S.; clarifying provisions regarding execution sales; amending s. 56.27, F.S.; clarifying provisions regarding execution and payments thereunder; amending s. 77.01, F.S.; providing that certain debts related to negotiable instruments are not subject to garnishment; amending s. 77.041, F.S.; providing that only individuals subject to garnishment must be provided a "Notice to Defendant"; amending s. 678.1051, F.S.; providing that a judgment lien certificate does not constitute an adverse claim against a financial asset; amending s. 713.901, F.S., the Florida Uniform Federal Lien Registration Act; providing procedures for filing documentation relating to federal liens; providing an effective date.

—was referred to the Committees on Judiciary; Commerce and Economic Opportunities; Appropriations Subcommittee on General Government; and Appropriations.

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By Representative Kendrick—

**HB 847**—A bill to be entitled An act relating to the Dog Island Conservation District, Franklin County; providing for codification of special laws relating to the Dog Island Conservation District; providing legislative intent; codifying and reenacting chapters 75-374, 79-461, and 84-430, Laws of Florida; providing for the repeal of all prior special acts related to the Dog Island Conservation District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Crow—

**HB 849**—A bill to be entitled An act relating to Pinellas County; amending chapter 80-585, Laws of Florida, as amended; increasing the number of members of the Emergency Medical Services Authority required for a quorum from three to four; correcting terminology; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Harper—

**HB 857**—A bill to be entitled An act relating to Palm Beach County; providing for codification of special laws regarding special districts pursuant to s. 189.429, F.S., relating to Highland Glades Water Control District, a special tax district in Palm Beach County; providing legislative intent; codifying and reenacting special acts relating to the district; providing district status and boundaries; providing for applicability of chapters 298 and 189, Florida Statutes, and other general laws; providing a district charter; providing for ratification of prior acts; providing for liberal construction; providing a saving clause in the event any provision of the act is deemed invalid; repealing chapters 8885 (1921) and 89-466, Laws of Florida; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Davis and others—

**HB 903**—A bill to be entitled An act relating to the Consolidated City of Jacksonville; creating and establishing separate airport and seaport authorities; providing for governing bodies, appointment of members, terms, staggered terms, rules of procedure; providing for employment of a managing director and other employees, providing for interrelations with and use of services of the City of Jacksonville; providing definitions; establishing powers; providing for issuance of bonds; providing for budgetary and financial matters; providing for rights of bondholders; providing rights of employees; establishing the separate authorities as county authorities; providing for participation in the Florida Retirement System; providing for cooperation with other entities; providing for audits and bonds; providing for purchasing, procurement, and award of contracts; providing for execution of instruments and examination of claims; providing for transfer of assets and liabilities from the Jacksonville Port Authority to the separate seaport and airport authorities and for assumption of responsibilities; making the Port Facilities Financing Act applicable to seaport operations; declaring a county and public purpose; providing for liberal construction; providing for severability; repealing certain existing local laws relative to the creation and operation of the Jacksonville Port Authority; providing for conforming amendments to sections 18.07 and 24.04, of chapter 92-341, Laws of Florida, being the Charter of the City of Jacksonville, to replace references to the Jacksonville Port Authority with references to the Jacksonville Seaport Authority and the Jacksonville Airport Authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Miller and others—

**HB 919**—A bill to be entitled An act relating to Escambia County; codifying, repealing, amending, and reenacting special laws relating to the Escambia County Utilities Authority; providing legislative intent; declaring the authority to be an independent special district; restoring words inadvertently omitted in the preparation of House Bill 1517, which was enacted as chapter 97-364, Laws of Florida; repealing obsolete provisions; deleting gender-specific references; providing a district charter; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Waters—

**HB 927**—A bill to be entitled An act relating to Pinellas Park Water Management District, Pinellas County; providing for codification of special laws relating to Pinellas Park Water Management District pursuant to s. 189.429, F.S.; providing legislative intent; amending, repealing, codifying, and reenacting special acts relating to the district; providing a title; providing definitions; providing for creation of the Pinellas Park Water Management District Authority and amendment of its charter; providing for a governing body for the authority; providing for reimbursement of expenses pursuant to s. 112.061, F.S.; providing duties and powers; providing for a budget; providing boundaries of the authority; providing for elections and referenda; providing for amendment of authority boundaries; providing tax exemptions; providing construction and effect; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Machek—

**HB 945**—A bill to be entitled An act relating to the Solid Waste Authority of Palm Beach County, a dependent special district in Palm Beach County; codifying the Authority's charter, chapter 75-473, Laws of Florida, as amended, pursuant to s. 189.429, F.S.; providing legislative intent; amending, codifying, and reenacting all special acts relating to the Solid Waste Authority of Palm Beach County as a single act; providing a short title; providing declaration of legislative intent; providing for application to incorporated and unincorporated areas; providing definitions; providing purposes and powers; providing exemption from taxation; providing prohibition, permits, and penalty; providing enforcement; providing injunctive relief; providing judicial review; providing severability; repealing all prior special acts related to the Authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Spratt—

**HB 975**—A bill to be entitled An act relating to the Sebring Airport Authority, Highlands County; amending s. 8, ch. 67-2070, Laws of Florida, as amended; increasing the threshold for requiring bids for the purchase of property and services; amending s. 3, ch. 67-2070, Laws of Florida, as amended; including additional property under the jurisdiction of the authority; amending s. 4, ch. 67-2070, Laws of Florida, as amended; providing that an affirmative vote of a majority of the members present at a meeting where there is a quorum shall be necessary for any action by the board; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By the Committee on Tourism; and Representative Rubio and others—

**CS for HB 987**—A bill to be entitled An act relating to grants administered by the Division of Cultural Affairs; creating s. 265.702, F.S.; authorizing the Division of Cultural Affairs of the Department of State to accept and administer funds to provide grants for acquiring, renovating, or constructing regional cultural facilities; providing for eligibility; requiring the Florida Arts Council to review grant applications; requiring the council to submit an annual list to the Secretary of State; requiring the updating of information submitted by an applicant that is carried over from a prior year; providing definitions; providing standards for matching state funds; limiting the maximum amounts of grants; granting rulemaking authority to the division; amending s. 265.286, F.S.; expanding eligibility criteria for the challenge grant program; providing match requirements; prohibiting participation by any programs oper-

ated in state-owned cultural facilities not affiliated with the State University System; providing an effective date.

—was referred to the Committees on Governmental Oversight and Productivity; Comprehensive Planning, Local and Military Affairs; Appropriations Subcommittee on General Government; and Appropriations.

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By Representative Green—

**HB 1041**—A bill to be entitled An act relating to the Fort Myers Beach Mosquito Control District, Lee County; providing legislative intent; providing for codification of the special acts relating to the District pursuant to s. 189.429, F.S.; codifying, reenacting, and amending all prior special acts relating to the District; codifying the several county resolutions relating to the District; providing a District charter; repealing all prior special acts relating to the District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Needelman—

**HB 1115**—A bill to be entitled An act relating to Brevard County; providing for codification of existing special laws relating to the creation, powers, and duties of the Melbourne-Tillman Water Control District, a dependent special district in Brevard County, as provided in chapters 86-418, 90-401, 91-341, 92-239, and 94-424, Laws of Florida, except as amended by this act; providing legislative purpose; amending definitions of "District," "general obligation bonds," and "revenue bonds"; amending scope of revenue sources allowed to be bonded; clarifying provisions relating to liens, collection, and foreclosure to include special assessments and stormwater management user fees; amending liability of District where lands are made available to public for outdoor recreational purposes, as defined therein; providing editorial revisions; establishing obstruction or impeding of a drainage canal or watercourse as a criminal offense; providing for civil damages for obstruction and impeding drainage canal or watercourse; amending, codifying, reenacting, and repealing chapters 86-418, 90-401, 91-341, 92-239, and 94-424, Laws of Florida; re-creating the District and re-creating and reenacting the charter; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Miller and others—

**HB 1157**—A bill to be entitled An act relating to the Department of State; directing the Department of Community Affairs and the Department of State to conduct a study of lighthouses in the state; providing requirements of the study; providing for planning and funding responsibilities; directing each department to make a budget request for funding purposes; providing an appropriation; amending s. 15.16, F.S.; authorizing the department to waive certain advertising requirements; amending s. 288.809, F.S.; revising membership of the Florida Intergovernmental Relations Foundation; amending s. 288.816, F.S.; deleting a requirement that certain law enforcement agencies notify the department of certain arrests and incarcerations; amending s. 679.401, F.S.; specifying the Florida Secured Transaction Registry as a place for certain filings; creating s. 679.4015, F.S.; establishing the Florida Secured Transaction Registry; prescribing duties of the department; prescribing standards for the registry; providing powers and duties of contracting entities performing services with respect to the registry; amending s. 901.26, F.S.; providing that failure to provide certain consular notification shall not be a defense in a criminal proceeding or a cause for release of a foreign national from custody; providing effective dates.

—was referred to the Committees on Commerce and Economic Opportunities; Governmental Oversight and Productivity; Appropriations Subcommittee on General Government; and Appropriations.

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By Representative Paul—

**HB 1183**—A bill to be entitled An act relating to the Englewood Area Fire Control District in Sarasota and Charlotte Counties; codifying, reenacting, amending, and repealing special laws relating to the district; providing that the district is an independent special district; providing legislative intent; providing for applicability of chapters 191 and 189, Florida Statutes, and other general laws; providing a district charter; providing boundaries; providing for a district board; providing authority of the board; providing for staff; providing duties and powers of the board; providing for elections to the board; providing salary of board members; providing for removal of board members; providing for revenue raising; providing for the levying of non-ad valorem assessments; providing for capital improvement impact fees; providing severability; providing for liberal construction; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Tourism; and Representative Trovillion and others—

**HB 1419**—A bill to be entitled An act relating to historic preservation; repealing pt. I of ch. 266, F.S.; eliminating general provisions relating to historic preservation boards of trustees and the responsibilities of the Department of State with respect thereto; repealing ss. 266.0011, 266.0012, 266.0013, 266.0014, 266.0015, 266.00155, 266.0016, and 266.0017, F.S.; eliminating the Historic Pensacola Board of Trustees; amending s. 267.031, F.S.; providing powers and duties of the Division of Historical Resources; providing for the establishment of historic preservation regional offices; providing purpose; requiring the division to establish a citizen support organization for each regional office; requiring the division to establish and maintain a central inventory of historic properties; requiring the employment of a state archaeologist; providing qualifications and responsibilities for the state archaeologist; requiring the employment of a state historic preservation officer and other personnel; providing for designation and responsibilities of the state historic preservation officer; amending s. 267.061, F.S.; correcting a cross reference; requiring rules for historic property renovation to be based on certain national guidelines and standards; repealing provisions relating to division responsibilities, state archaeologist, and state historic preservation officer; amending s. 267.0612, F.S.; deleting provisions relating to the Historic Preservation Advisory Council; creating the Florida Historical Commission; providing powers and duties; providing composition of the commission; providing for initial membership and subsequent appointments; providing terms and organization; providing responsibilities of the commission; providing that specified members of the commission shall sit as Florida's National Register Review Board; amending s. 267.0617, F.S.; requiring review of special category historic preservation grants-in-aid by the Florida Historical Commission; defining such grants; providing for review of other grants by grant review panels; conforming cross references; amending s. 267.062, F.S.; correcting a cross reference; amending s. 267.072, F.S., relating to Museum of Florida History programs; renumbering provisions relating to historical museum grants as s. 267.0619, F.S.; revising provisions with respect to grant application review; renumbering provisions relating to the Great Floridians program as s. 267.073, F.S.; correcting a cross reference; creating s. 267.074, F.S.; requiring the Division of Historical Resources to coordinate and direct the Historical Marker Program; delineating program responsibilities; providing classification of markers; requiring the division to establish a central register of markers and to establish and maintain the Florida Register of Heritage Landmarks; requiring rules; requiring a comprehensive plan; providing for the establishment of fees; specifying funding sources for markers; creating s. 267.0743, F.S.; creating the State Historical Marker Council; providing for membership, meetings, organization, and responsibilities of the council; amending s. 267.081, F.S.; authorizing the division to exercise the right of trademark and service mark over specified terms; creating s. 267.115, F.S.; providing division authority and responsibilities pertaining to objects of historical or archaeological value; requiring maintenance of records; providing for loan, sale, exchange, or other disposition of objects under certain circumstances; providing for disposition of funds; providing for rules; providing a penalty; providing for contracts; allowing program for administering finds of artifacts in state-owned river bottoms; amending s. 267.13, F.S.; revising provisions with respect to restitution for the commission of practices prohibited under ch. 267, F.S.; defining value elements for purposes of determining restitution; amending s.

267.14, F.S.; providing public policy declarations; creating s. 267.173, F.S.; requiring the Department of State to contract with the University of West Florida for management of certain state-owned properties; providing contract goals; requiring use of proceeds derived from the management of such properties; authorizing transfer and ownership of certain artifacts, documents, and properties to the university; providing for transfer of records, property, personnel, and funds of the Historic Pensacola Board of Trustees to the university; specifying certain powers and duties of the University of West Florida; providing that the university may contract with its direct-support organization to perform all acts necessary to assist the university in carrying out its historic preservation and historic education responsibilities; delineating certain powers; authorizing the Department of State to contract with the University of West Florida to serve as a regional office; providing an exception to the requirement for a separate direct-support organization for regional offices; amending and renumbering s. 266.0018, F.S.; requiring the authorization of a direct-support organization to assist the University of West Florida in historic preservation and historic preservation education purposes and responsibilities; conforming references; providing membership criteria and selection; delineating contract and other governance requirements; providing for preservation of validity of judicial or administrative actions involving the Historic Pensacola Preservation Board of Trustees; amending ss. 607.1901 and 872.05, F.S.; correcting cross references; providing effective dates.

—was referred to the Committees on Governmental Oversight and Productivity; Comprehensive Planning, Local and Military Affairs; Appropriations Subcommittee on General Government; and Appropriations.

By Representative Hogan—

**HB 1565**—A bill to be entitled An act relating to public records; providing an exemption from public records requirements for information identifying the location of specified archaeological sites; providing an expiration date; providing a finding of public necessity; providing an effective date.

—was referred to the Committees on Comprehensive Planning, Local and Military Affairs; Governmental Oversight and Productivity; and Rules and Calendar.

By Representative Detert—

**HB 1855**—A bill to be entitled An act relating to the Holiday Park and Recreation District, Sarasota County; amending, codifying, reenacting, and repealing special acts relating to the district; providing boundaries of the district; providing for a Board of Trustees; providing for election and organization of the board; providing powers and duties of the board; providing for a tax; providing powers and duties of the district; requiring a financial statement and budget; providing definitions; requiring a record of meetings of the board; providing for filling vacancies; providing for bonds; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Clarke—

**HB 1857**—A bill to be entitled An act relating to Tri-Par Estates Park and Recreation District, Sarasota County; codifying, reenacting, amending, and repealing special acts relating to the district; providing a charter; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Melvin and others—

**HB 1897**—A bill to be entitled An act relating to Okaloosa County; amending ch. 90-412, Laws of Florida; changing the name of the Fort

Walton Beach Area Bridge Authority to the Emerald Coast Bridge Authority; reducing the number of members of the authority from seven to five; amending the method of appointment of members of the authority; changing the date by which the authority shall prepare and submit a budget; requiring the board of county commissioners to examine the budget in good faith; providing that this act does not abrogate current obligations and liabilities; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Baxley—

**HB 1899**—A bill to be entitled An act relating to Marion County; prohibiting watercraft within specified areas of Lake Weir from proceeding at greater than “no-wake” speeds; requiring the board of county commissioners to erect signs; directing the Marion County Sheriff to enforce the prohibition; providing penalties; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

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By Representative Sorensen—

**HM 1161**—A memorial to the Federal Emergency Management Agency, urging the agency to adopt a policy towards the Florida Keys that is consistent with Florida law and its own policy.

—was referred to the Committee on Rules and Calendar.

## RETURNING MESSAGES—FINAL ACTION

The Honorable John M. McKay, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 224, SB 540, SB 698, SB 814, CS for SB 1306 and CS for SB 1610.

*John B. Phelps, Clerk*

The bills contained in the foregoing message were ordered enrolled.

## CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 27 was corrected and approved.

## CO-SPONSORS

Senators Crist—SB 674, CS for SB 1118, SB 1850, SB 1852; Jones—CS for SB 1118; Villalobos—SB 856

## VOTES RECORDED

Senator Clary was recorded as voting “yea” on the following bill which was considered April 27: **CS for CS for SB 2092**.

Senator Dawson was recorded as voting “yea” on the following bills which were considered April 27: **SB 1200, CS for SB 1118, CS for CS for SB 306, SB 1324, SB 1020, SB 1986, SB 1422, SB 1194, CS for SB 118, CS for SB 840, CS for SB 2118, CS for SB 890, CS for SB 658, SB 1170, CS for SB 894, CS for CS for SB 1282, CS for SB 2034, CS for SB 2088, HB 1935, CS for SB 1852, CS for SB 1850, CS for SB 84, CS for SB 322, SB 698, CS for SB 350, HB 47, SB 1344, CS for SB 1366, SB 818, CS for SB 1226, SB 2308, SB 1132-Reconsideration, CS for CS for SB 668, CS for SB 2092, CS for SB 1642 and CS for SB 1306**; and was recorded as voting “nay” on the following bills which were considered April 27: **HB 385 and CS for SB 962**.

Senator Dyer was recorded as voting “yea” on the following bill which was considered April 27: **SB 1986**.

Senator Holzendorf was recorded as voting “yea” on the following bill which was considered April 27: **CS for SB 962**.

Senator Jones was recorded as voting “yea” on the following bills which were considered April 27: **CS for SB 1306, CS for SB 1642, CS for CS for SB 2092, CS for CS for SB 668, SB 2308, CS for SB 1226, CS for SB 962, SB 818, CS for SB 1366, SB 1344, HB 47, CS for SB 350, HB 385, SB 698, CS for SB 322, CS for SB 84, CS for SB 1850, CS for SB 1852, HB 1935, CS for SB 2088, CS for SB 2034, CS for CS for SB 1282, SB 1170, CS for SB 658, CS for SB 890, CS for SB 2118, CS for SB 840, CS for SB 118, SB 1194, SB 1986, SB 1020, SB 1324, CS for CS for SB 306, HB 695, CS for SB 1118, SB 1200, SB 1422 and SB 1132-Reconsideration**; and was recorded as voting “nay” on the following bill which was considered April 27: **CS for SB 894**.

Senator Laurent was recorded as voting “yea” on the following bill which was considered April 27: **CS for SB 894**.

Senator Lawson was recorded as voting “yea” on the following bills which were considered April 27: **CS for SB 1306, CS for SB 1642, CS for CS for SB 2092, CS for CS for SB 668, SB 2308, CS for SB 1226, CS for SB 962, SB 818, CS for SB 1366, SB 1344, HB 47, CS for SB 350, HB 385, SB 698, CS for SB 322, CS for SB 84, CS for SB 1850, CS for SB 1852, HB 1935, CS for SB 2088, CS for SB 2034, CS for CS for SB 1282, CS for SB 894, SB 1170, CS for SB 658, CS for SB 890, CS for SB 2118, CS for SB 840, CS for SB 118, SB 1194, SB 1986, SB 1020, SB 1324, CS for CS for SB 306, HB 695, CS for SB 1118, SB 1200, SB 1422 and SB 1132-Reconsideration**.

Senator Miller was recorded as voting “yea” on the following bills which were considered April 27: **SB 1200, HB 695, CS for CS for SB 306, SB 1324, SB 1020, SB 1986, SB 1422, SB 1194, CS for SB 118, CS for SB 840, CS for SB 2118, CS for SB 890, CS for SB 658, SB 1170, CS for SB 894, CS for CS for SB 1282, CS for SB 2034, CS for SB 2088, HB 1935, CS for SB 1852, CS for SB 1850, CS for SB 84, CS for SB 322, SB 698, HB 385, CS for SB 350, HB 47, SB 1344, CS for SB 1366, SB 818, CS for SB 962, CS for SB 1226, SB 2308, SB 1132-Reconsideration, CS for CS for SB 668, CS for SB 2092, CS for SB 1642 and CS for SB 1306**; and was recorded as voting “nay” on the following bill which was considered April 27: **CS for SB 1118**.

Senator Mitchell was recorded as voting “yea” on the following bills which were considered April 27: **CS for SB 894 and CS for SB 1306**.

Senator Sanderson was recorded as voting “yea” on the following bill which was considered April 27: **CS for CS for SB 668**.

Senator Webster was recorded as voting “yea” on the following bill which was considered April 27: **SB 698**.

## RECESS

On motion by Senator Lee, the Senate recessed at 4:22 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 9:00 a.m., Tuesday, May 1.

## SENATE PAGES

April 30-May 4

Adrian Abner, Blountstown; Marissa Barber, Port St. Lucie; Shannon Blizzard, Tallahassee; Gareth Cales, Tallahassee; Elizabeth Crew, Monticello; Emily Holder, Orange Park; Katie Holder, Orange Park; Brad Knight, Tallahassee; Lauren Macdonald, Winter Garden; Kerry Myers, Shalimer; Joshua Pritchard, Orlando; Kendra Rich, Ocala; Katherine Smallwood, Tallahassee; Elizabeth Smokay, Orlando; Douglas Thornton, Tallahassee; Lauren Thornton, Tallahassee; Kristen Turnage, Middleburg; Jordan Webster, Orlando; Ashley Wilson, Plantation; Charles Whittington, Indialantic